

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

\* \* \* \* \*

In the matter of: \*

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MARINE BOARD OF INVESTIGATION \*

INTO THE SINKING OF THE *SCANDIES ROSE* \*

ON DECEMBER 31, 2019 \*

\*

\* \* \* \* \*

Edmonds Center for the Arts  
Seattle, Washington

Wednesday,  
February 24, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAHAN, Chairman  
CDR KAREN DENNY, Member  
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor  
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge  
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.  
Holmes Weddle & Barcott  
(On behalf of Scandies Rose Fishing Company, LLC)

NIGEL STACEY, Esq.  
Stacey & Jacobsen PLC  
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder  
LCDR MATTHEW PEKOSKE, Judge Advocate  
JOSEPH STACEY, Esq.

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P R O C E E D I N G S

(8:00 a.m.)

1  
2  
3 CAPT CALLAGHAN: It is 0800 on February 24, 2021, and this  
4 hearing is now in session. Good morning, ladies and gentlemen.  
5 I'm Captain Greg Callaghan, United States Coast Guard, Chief of  
6 Prevention for the 11th Coast Guard District. I'm the chairman of  
7 this Coast Guard Marine Board of Investigation and presiding  
8 officer over these proceedings.

9 The Marine Board has established a COVID mitigation plan to  
10 comply with federal, state and local requirements. As a result,  
11 no members of the public will be permitted to view this hearing in  
12 person. The Board will receive witness testimony through a hybrid  
13 of in-person, virtual, and telephonic means. Members of the Board  
14 have been spaced out far enough at the main table to remove their  
15 mask while seated to maximize clarity and minimize disruption.  
16 Members are to place masks back on at any time when leaving the  
17 table and whenever approached by another person. I ask that  
18 anyone who is unable to maintain social distancing, please keep  
19 their mask on unless actively speaking into the microphones.

20 Due to the extensive technology used to support this hearing  
21 and the potential for unanticipated delays or challenges, I ask  
22 that you please be patient with us in the event of any  
23 disruptions.

24 The Commandant of the Coast Guard has convened this Board  
25 under the authority of Title 46 U.S.C. Section 6301 and Title 46

1 C.F.R. Part 4 to investigate the circumstances surrounding the  
2 sinking of the commercial fishing vessel *Scandies Rose* with the  
3 loss of five lives on December 31st, 2019, while transiting in the  
4 vicinity of Sutwik Island, Alaska. There were two survivors.

5 I would like to take this opportunity to express my  
6 condolences to the family and friends of the five crew members who  
7 were lost at sea. I note that many of you are watching this  
8 hearing on livestream due to the COVID restrictions in place, and  
9 we appreciate you being here with us.

10 Upon completion of the investigation, this Marine Board will  
11 submit its reported findings, conclusion, and recommendations to  
12 the Commandant of the United States Coast Guard. Other than  
13 myself, the members of this Board include Commander Karen Denny  
14 and Lieutenant Commander Michael Comerford. The legal counsel to  
15 this Board is Lieutenant Sharyl Pels. The recorder is Lieutenant  
16 Ian McPhillips. Coast Guard technical advisors to this Board are  
17 Mr. Scott Giard and Mr. Keith Fawcett. This Board's media liaison  
18 is Lieutenant Commander Scott McCann.

19 The National Transportation Safety Board is also  
20 participating in this hearing. Mr. Bart Barnum, Investigator in  
21 Charge for the NTSB's *Scandies Rose* investigation is here with us,  
22 along with Mr. Paul Suffern.

23 Witnesses are appearing before the Board to provide valuable  
24 information that will assist this investigation. We request that  
25 all members of the public be courteous to the witness and respect

1 their right to privacy.

2 The members of the press are welcome to attend virtually, and  
3 provisions have been made during the proceedings to allow the  
4 media to do so. The news media may question witnesses concerning  
5 the -- concerning the testimony they have given after I have  
6 released them from these proceedings. I ask that any such  
7 interviews be conducted with full consideration of the COVID  
8 mitigation procedures that this Marine Board has established.

9 The investigation will determine as closely as possible the  
10 factors that contributed to the incident so that proper  
11 recommendations for the prevention of similar casualties may be  
12 made; whether there is evidence that any act of misconduct,  
13 inattention to duty, negligence, or willful violation of the law  
14 on the part of any licensed and credentialed person contributed to  
15 the casualty; and whether there is evidence that any Coast Guard  
16 personnel or any representative or employee of any other  
17 government agency or any other person caused or contributed to the  
18 casualty.

19 The Marine Board planned this two-week period to examine all  
20 events relating to the loss of the *Scandies Rose* and five crew  
21 members. The hearing will explore crew member duties and  
22 qualifications, shore-side support operations, vessel stability,  
23 weather factors, effects of icing, safety equipment, the  
24 operations of the vessel from the past up to and including the  
25 accident voyage, and survey imagery of the vessel in its final

1 resting place. The hearing will also include a review of industry  
2 and regulatory safety programs, as well as the U.S. Coast Guard  
3 Search and Rescue activities related to the response phase of the  
4 accident after notification that the *Scandies Rose* was in  
5 distress.

6 The Coast Guard has designated parties in interest to this  
7 investigation. In Coast Guard marine casualty investigations, a  
8 party in interest is an individual, organization, or other entity  
9 that under the existing evidence or because of his or her position  
10 may have been responsible for or contributed to the casualty. A  
11 party in interest may also be an individual, organization, or  
12 other entity having a direct interest in the investigation in  
13 demonstrating the potential for contributing significantly to the  
14 completeness of the investigation or otherwise enhancing the  
15 safety of life and property at sea through participation as party  
16 in interest.

17 All parties in interest have a statutory right to employee  
18 counsel to represent them, to cross-examine witnesses, and have  
19 witnesses called on their behalf. Witnesses who are not  
20 designated as parties in interest may be assisted by counsel for  
21 the purpose of advising them concerning their rights. However,  
22 such counsel are not permitted to examine or cross-examine other  
23 witnesses or otherwise participate in the investigation.

24 I will now read the list of those organizations and  
25 individuals whom I've previously designated as parties in

1 interest. Scandies Rose Fishing Company LLC, represented by  
2 counsel who are here in person today. Crew persons Mr. Dean  
3 Gribble and Mr. Jon Lawyer -- Lawler represented by counsel who  
4 are here in person today.

5 I have also decided that Mr. Bruce Culver, the Naval  
6 Architect who created the stability instructions for the *Scandies*  
7 *Rose*, meets the statutory definition of a party in interest to  
8 this investigation. Yesterday, I designated him as the fourth  
9 party in interest, joining the vessel owner and two surviving crew  
10 members. To afford Mr. Culver time to exercise his rights as a  
11 party in interest, I have postponed his testimony originally  
12 scheduled for today until later in the hearing. We will update  
13 the schedule, post it on livestream and Coast Guard media site  
14 with his -- new testimony time as soon as possible.

15 The Marine Board will place all witnesses under oath. When  
16 testifying under oath, a witness is subject to federal laws and  
17 penalties for perjury for making false statements under Title 18  
18 U.S.C. Section 1001. Penalties could include a fine of up to  
19 \$250,000 or imprisonment of up to five years or both.

20 The sources of information to which this investigation will  
21 inquire are many and varied. Since the date of the casualty, the  
22 NTSB and Coast Guard have conducted substantial evidence  
23 collection activities, and some of that previously collected  
24 evidence will be considered during this hearing. Should any  
25 person have or believe he or she has information not brought



1 forth, but which might be of -- direct significance, that person  
2 is urged to bring that information to my attention by emailing  
3 uscg.scandiesrosembi@gmail.com. This email address will be  
4 continuously monitored.

5 Mr. Bart Barnum will now say a few words on behalf of the  
6 NTSB.

7 MR. BARNUM: Thank you, Captain Callaghan.

8 I am Bart Barnum, Investigator in Charge for the National  
9 Transportation Safety Board's investigation of this accident. The  
10 Safety Board is an independent federal agency which under the  
11 Independent Safety Board Act of 1974 is required to determine the  
12 cause or probable cause of this accident, to issue a report of  
13 facts, conditions, and circumstances relating to it, and make  
14 recommendations for measures to prevent similar accidents.

15 The NTSB has joined the hearing to avoid duplicating the  
16 development of facts. Nevertheless, I do wish to point out that  
17 this does not preclude the NTSB from develop -- developing  
18 additional information separately from this proceeding if that  
19 becomes necessary. At the conclusion of this hearing, the NTSB  
20 will analyze the facts of this accident and determine the probable  
21 cause independent of the Coast Guard.

22 At a future date, a separate report of NTSB's findings will  
23 be issued, which will include our official determination of the  
24 probable cause of this accident. If appropriate, the Safety Board  
25 will issue recommendations to correct safety problems discovered

1 during this investigation. These recommendations might become --  
2 might come in advance of the report.

3 In addition, on behalf of the NTSB, I would like to offer my  
4 deepest condolences for the families and those affected by this  
5 tragic accident. Thank you.

6 CAPT CALLAGHAN: Thank you, Mr. Barnum.

7 Yesterday, we heard from a representative from the National  
8 Weather Service and several industry personnel who had visited the  
9 vessel before the accident. Mr. Kerry Walsh from Global Diving  
10 walked us through his company's ROV expedition to locate the  
11 wreckage of the vessel and survey the area.

12 Today, we will speak to several professional engineers  
13 regarding vessel stability. This afternoon, we will hear from  
14 Mr. John Lawler, one of the two survivors of the *Scandies Rose*  
15 marine casualty, who will describe his firsthand account of the  
16 incident.

17 At this time, this hearing will go into recess and resume at  
18 0830.

19 (Off the record at 8:10 a.m.)

20 (On the record at 8:30 a.m.)

21 CAPT CALLAGHAN: Okay. The time is 0830. This hearing is  
22 now back in session. We will now hear from Mr. Paul Zankich,  
23 Mr. Bud Bronson, and Mr. Jonathan Parrott, all naval architects  
24 and professional engineers.

25 Gentlemen, at this time, Lieutenant McPhillips will

1 administer your oath and ask each of you some preliminary  
2 questions.

3 Lieutenant McPhillips?

4 LT McPHILLIPS: Gentlemen, please stand and raise your right  
5 hand.

6 (Whereupon,

7 PAUL ZANKICH, BUD BRONSON, AND JONATHON PARROTT  
8 were called as witnesses and, after being first duly sworn, were  
9 examined and testified as follows:)

10 LT McPHILLIPS: Okay. You may be seated -- you may be  
11 seated. I will be asking each of you questions about your  
12 background, starting with Mr. Zankich.

13 Mr. Zankich, please state your full name and spell your last  
14 name.

15 (No audible response).

16 LT McPHILLIPS: You're on mute, sir.

17 MR. ZANKICH: My name is Paul -- Luke Paul Zankich. Can you  
18 hear me?

19 LT McPHILLIPS: Yes, sir. Can you please spell your last  
20 name?

21 MR. ZANKICH: Z-a-n-k-i-c-h.

22 LT McPHILLIPS: Please identify counsel or representative if  
23 present.

24 MR. ZANKICH: None.

25 LT McPHILLIPS: Please tell us what is your current

1 employment and position?

2 MR. ZANKICH: I am a naval architect/marine engineer at  
3 Columbia-Sentinel Engineers in Seattle.

4 LT McPHILLIPS: What are your general responsibilities in  
5 that job?

6 MR. ZANKICH: I do engineering calculations and go out to, to  
7 job sites. Yesterday, I was out setting up for a stability test  
8 Friday for the U.S. Coast Guard.

9 LT McPHILLIPS: Can you briefly tell us your relevant work  
10 history?

11 MR. ZANKICH: What was that, sir?

12 LT McPHILLIPS: Briefly tell us your relevant work history.

13 MR. ZANKICH: I graduated University of Michigan in 1966 with  
14 a BA -- or BE in naval architecture and marine engineering. I  
15 went to work for the Boeing Company designing their hydrofoils for  
16 six years. In '72, I went to Todd Shipyards as their chief naval  
17 architect. In '78, I went to Marine Power Equipment Company as  
18 the chief engineer. And in '86, I joined Columbia-Sentinel  
19 Engineers as a partner in the company.

20 LT McPHILLIPS: What is your education related to your  
21 position?

22 MR. ZANKICH: I think I said I have a Bachelor of Science of  
23 Engineering in 1966 from Michigan.

24 LT McPHILLIPS: Do you hold any professional licenses or  
25 certificates related to your position?

1 MR. ZANKICH: Yes, I have a professional engineer's license  
2 from the State of Washington.

3 LT McPHILLIPS: Thank you, sir.

4 Mr. Bronson, please identify counsel or representative, if  
5 present?

6 MR. BRONSON: None.

7 LT McPHILLIPS: Please state your full name and spell your  
8 last name.

9 MR. BRONSON: Boston E. Bronson, B-r-o-n-s-o-n.

10 LT McPHILLIPS: Please tell us what is your current  
11 employment and position.

12 MR. BRONSON: Naval architect in private practice where I go  
13 under the company name of Bronson Marine. I do naval architecture  
14 and marine engineering for various clients that I've had over the  
15 years who still need my services on occasion.

16 LT McPHILLIPS: What are your general responsibilities in  
17 that job?

18 MR. BRONSON: Pretty much anything in general naval  
19 architecture and marine engineering. Currently, I'm assisting a  
20 gentleman who has a 205-foot (indiscernible) in New Zealand,  
21 essentially rebuilding it after a massive collision at sea.

22 LT McPHILLIPS: What is your education related to your  
23 position?

24 MR. BRONSON: I have a Bachelor of Science from U.S. Naval  
25 Academy 1961. During my time in the service, I went to U.S. Navy

1 Nuclear Power School, which is a one-year course in theoretical  
2 and practical and nuclear engineering. In 1971, I went to the  
3 University of Michigan, and I have a Master of Science in  
4 Engineering and Naval Architecture and Marine Engineering from,  
5 from that institute.

6 LT McPHILLIPS: Do you hold any professional licenses or  
7 certificates related to your position?

8 MR. BRONSON: I'm a registered PE in the State of Washington  
9 and have been for almost 50 years. And I used to have -- hold a  
10 master's license, but I gave that up about ten years ago because  
11 I've got -- can't stand up in the seaway anymore.

12 LT McPHILLIPS: Thank you, Mr. Bronson.

13 Mr. Parrott, please state your full name and spell your last  
14 name.

15 MR. PARROTT: Jonathan Parrott. Last name is P-a-r-r-o-t-t.

16 LT McPHILLIPS: Please identify counsel or representative, if  
17 present.

18 MR. PARROTT: None present.

19 LT McPHILLIPS: Please tell us, what is your current  
20 employment and position?

21 MR. PARROTT: I'm senior naval architect at Crowley  
22 Engineering Services. It used, it used to be called Jensen  
23 Maritime.

24 LT McPHILLIPS: What are your general responsibilities in  
25 that job?

1 MR. PARROTT: Currently, I do preliminary design, concept  
2 design for various tugs, vessels, barges.

3 LT McPHILLIPS: Can you briefly tell us your relevant work  
4 history?

5 MR. PARROTT: Joined Jensen Maritime in 1979 after graduating  
6 school and been working with them for 42 years. I've done  
7 everything from stability work to running the company as president  
8 and now as a senior naval architect.

9 LT McPHILLIPS: What is your education related to your  
10 position?

11 MR. PARROTT: Graduated in 1979 from Webb Institute of Naval  
12 Architecture with a BSE in Naval Architecture and Marine  
13 Engineering.

14 LT McPHILLIPS: Do you hold any professional licenses or  
15 certificates related to your position?

16 MR. PARROTT: Yes, I have a PE license in, in the State of  
17 Washington for Naval Architecture and Marine Engineering.

18 LT McPHILLIPS: Thank you, gentlemen. Captain Callaghan will  
19 now have follow-up questions for you.

20 EXAMINATION OF PAUL ZANKICH, BUD BRONSON, AND JONATHON PARROTT

21 CAPT CALLAGHAN: Good morning, gentlemen, and thank you for  
22 being with us this morning. If at any point we ask any questions  
23 that you don't understand or cannot hear because of technical  
24 difficulties, please don't hesitate to say so, and we'll repeat or  
25 rephrase the question. As of right now, we have you scheduled to

1 run from -- 0830 until 10 a.m.

2 What we'll do is -- the way I'd like to try and do this is  
3 really split it into two, two parts and maybe take a five minute  
4 recess through the middle. We'll -- what we'll plan on doing is  
5 we'll go around for at least one round of questions from myself,  
6 National Transportation Safety Board, and then the parties in  
7 interest. And then what we'd like to do is make it a discussion  
8 panel to really gain as much as we can from you gentlemen and your  
9 professional backgrounds.

10 So using the Zoom platform, we have the ability to share  
11 exhibits virtually. The recorder, Lieutenant McPhillips, will  
12 pull any necessary exhibits up on your virtual desktop. If at any  
13 point you need to point something out on an exhibit, Lieutenant  
14 McPhillips can highlight the area for the benefit of the Board and  
15 the livestream audience. When we look at these exhibits, please  
16 take your time to refresh your memory or acquaint yourself with  
17 the information.

18 Given, given the, the virtual platform, it could -- we may  
19 experience some difficulties, so I'll ask that you please be  
20 patient with us. And then just, again, let us know if there's any  
21 clarification that you need or if you're having any difficulty on  
22 your end, and we can make some adjustments as necessary.

23 As we introduce exhibits, we'll give you time for it to pull  
24 up on your screen and to review it before commenting.

25 So starting with Mr. Zankich, I know we got a basic



1 background from you, and so I wanted to try and get a little more  
2 detail. Sir, can you please talk about your background,  
3 particularly in detail relating to any work you've done relating  
4 to commercial fishing vessels that work in the Pacific Northwest  
5 or Alaskan waters?

6 MR. ZANKICH: Yes. I should start by saying, when I  
7 graduated from Michigan, my final design project was a 100-foot  
8 king crab fishing vessel that I presented to the class, and I  
9 subsequently presented a student paper on that in the Pacific  
10 North section of the -- Pacific Northwest section of the Society  
11 of Naval Architecture Marine Engineer.

12 From that time forward, I dabbled in the fishing industry  
13 until 1977, I guess, and started doing some stability work on  
14 shrimp boats that were coming around from the Gulf to become king  
15 crab boats in the Northwest and also worked on several king crab  
16 vessel designs. My design was a house aft vessel, and most of the  
17 northwest boats at that time were house forward vessels, and I  
18 blatantly declared them to be unsafe because the captain could not  
19 see the crew on deck while they were working on the crab pots.

20 From that time forward, I've done I would say maybe dozen and  
21 a half, two dozen king crab stability tests on vessels and written  
22 the current stability books and delivered it to the owners. Other  
23 than that, we do at Columbia-Sentinel work on refurbishing  
24 vessels, so we get called by shipyards to, to correct deficiency  
25 on vessels, and many of them are king crab vessels.

1       CAPT CALLAGHAN: Thank you for that, sir. I have one follow  
2 up with -- relating to the stability instructions that you've gone  
3 on commercial fishing vessels. Can, can you tell us how recent  
4 the last stability inspection you did on a commercial fishing  
5 vessel?

6       MR. ZANKICH: It was within the last six months. We  
7 sponsoned the vessel -- did the design of the sponson of the  
8 vessel. And after the sponsoning, we did a stability test and  
9 wrote -- rewrote the current stability book for that vessel.

10       CAPT CALLAGHAN: Okay. Thank you, sir.

11       Mr. Bronson, I want to pass the same question over to you,  
12 sir, and ask you to talk about your background, particularly in  
13 detail relating to work that you've done relating to commercial  
14 fishing vessels working in the Pacific Northwest or Alaskan  
15 waters.

16       MR. BRONSON: When I graduated from Michigan, I was hired by  
17 Tacoma Boat Building company, which was located, obviously, in  
18 Tacoma, and we did -- at that time, we did mainly vessels that  
19 were in the tuna industry. So it wasn't until I left Tacoma Boat  
20 in 1980 and opened my own office in Seattle that I started doing  
21 my -- doing much work in, in the Pacific Northwest. I've done  
22 stability work on several crabbers, longliners. My firm, Bronson  
23 Marine -- well, Bronson and Windsor at the time, worked on a  
24 340-foot factory trawler called *Arctic Storm*, which was the first  
25 big factory trawler done in the -- in, in years in this area.

1           And I've done a lot of stability work and other odds and ends  
2 for people up in the, in the North Pacific area until about 2000,  
3 at which time Mr. Windsor and I decided he wanted to retire  
4 because he was old. And I went to work for Martinac Shipbuilding  
5 down in Tacoma. Again, I went back to doing general naval  
6 architecture, and the fishing vessels we worked on, again, were,  
7 were tuna sangers (ph.). But my time in -- from 1980 to 2000, I  
8 was off and on out to Dutch Harbor and all sorts of areas out, out  
9 west doing miscellaneous work for boats.

10           For a time period -- I think it was from about 1990 to 1995,  
11 I taught the stability course for North Pacific fishing vessel  
12 owners. It was a one week course for, for, for masters. Since,  
13 since I quasi-retired from Martinac in 19 -- or in 2009 or '10,  
14 all my previous clients in other areas found I was around and so I  
15 -- I'm, I'm working off and on for different people doing odds and  
16 end for them, like this one down at New Zealand. We're working on  
17 this vessel that's been seriously damaged.

18           CAPT CALLAGHAN: And, and how recent would you say your work  
19 is with -- on crab fishing vessel stability?

20           MR. BRONSON: Crab fishing stability, 1995 up to 2000 or  
21 something like that. Once I went to work for, for Martinac, I've,  
22 I've done nothing for crab -- crabbing vessels since that time.

23           CAPT CALLAGHAN: Thank you, Mr. Bronson.

24           So I'm going to shift over to you, Mr. Parrott, ask you to  
25 talk about your background in detail, particularly relating to

1 work that you've done relating to commercial fishing vessels that  
2 work in the Pacific Northwest or Alaskan waters.

3 MR. PARROTT: There -- yeah, Jensen was one of the prime  
4 designers of fishing boats for the Pacific Northwest when I joined  
5 them in 1979. They were -- at the tail -- when I joined, it was  
6 at the tail end of the first series of, of crab boom -- building  
7 boom for crab vessels, and we were just wrapping up a series of  
8 117-foot crab vessels that were being built at Nichols Brothers.

9 For the first seven years that I worked for Jensen, being the  
10 junior naval architect, I got to do a lot of the inclines and  
11 stability write-ups for the boats, crabbers -- mostly crabbers and  
12 then we switched over to trawlers. Since that time, we've grown,  
13 I've gotten out of the stability work, but I still consult with  
14 the stability group in, in the company.

15 CAPT CALLAGHAN: Okay. Sir, and, and how recent would you  
16 say your work is stability related for crabbing vessels?

17 MR. PARROTT: Personally, I probably haven't done a stability  
18 report in about 15 years. But we have ongoing stability work with  
19 the, with the team and the company. Inclined a boat last week.  
20 Currently working on a couple of other crabbers.

21 CAPT CALLAGHAN: Okay. The next is a series of questions I'm  
22 going to ask and I'll ask that one of you answer. And so all of  
23 you have mentioned being certified professional engineers, and so  
24 I just want to ask background on that. So, when you initially got  
25 your professional engineer certifications, can you tell us what

1 the requirements were -- are to, to earn that professional  
2 engineering certification?

3 MR. ZANKICH: This is Mr. Zankich. I got my license in, I  
4 think, 1969, and you had to have four years of college education  
5 and four years of working under a professional engineer to get  
6 your eight years, I think it was, qualification. Shortly  
7 thereafter -- no, not shortly, but maybe ten years thereafter, I  
8 worked and had a contract with the State of Washington to write  
9 their PE exam for naval architecture and marine engineering. They  
10 were the only state in the nation that offered that license, and  
11 people would fly from around the United States to the State of  
12 Washington to take the exam.

13 And that was a -- we'll call it a storybook problem rather  
14 than the multiple guess that now the PE exam is. And when I was  
15 the National Vice President of the Society of Naval Architecture,  
16 representing the northwest, I instituted on the national level  
17 with NCEES, the National Counsel of Engineering Examiners, or  
18 whatever it is, and helped them make a national exam that is now  
19 offered in all the states that the Board want to proffer it to.  
20 And I still, every year or every two years, for Society of Naval  
21 Architects, review the exam. And I've taken it several times  
22 since. And regretfully, I probably wouldn't pass it now because  
23 I've been out of school long enough and I've been channeled away  
24 from some of the majors or minors that are in that exam. But I  
25 know what's on that exam because I've been writing corrections for

1 it for many, many years.

2 CAPT CALLAGHAN: Thank you for that, sir. And so this goes  
3 to talk to -- speak to your experience on the -- from the  
4 certification side of it. And so all three of you being  
5 certificated in the State of Washington, can you tell -- are there  
6 specific requirements for Professional Engineering Certification  
7 for the State of Washington?

8 MR. BRONSON: If I can answer it, they're pretty much the  
9 same. Four years of, of graduate work and four years -- or four  
10 years of college and four years of experience and cert --  
11 recommendations by a couple of professional engineers that you're  
12 qualified to take the exam. And then, now, everybody goes through  
13 NCEES. That's an organization back on the East Coast that writes  
14 all the professional engineers for all of professional engineering  
15 societies: civil, naval architect, electrical, nuclear, all like  
16 that.

17 As with Mr. Zankich, back in the, in the '80s and '90s, I  
18 also helped occasionally to write questions for the exam and, and  
19 he and I've both sat down and spent afternoons grading exams. Now  
20 it's, it's still a written exam, but in -- the Society of Naval  
21 Architects and Marine Engineers are in the process of, of  
22 converting theirs to a computer generated exam. And I'm working  
23 with the NCEES group in writing that -- the exam questions. And  
24 the biggest problem we have is writing the reference -- the  
25 electronics reference book for it.

1       CAPT CALLAGHAN: Sir, for the benefit of the public, can you,  
2 can you tell us what the NCEES stands for?

3       MR. BRONSON: I think it's the National Society for  
4 Engineering and Surveying. It covers all professional engineering  
5 and, and surveyors.

6       CAPT CALLAGHAN: Thank you. And since -- so my next question  
7 is in regards to maintaining your professional engineering  
8 certification once you've obtained your initial certification.  
9 What are the requirements to maintain that over time?

10       MR. ZANKICH: This is Mr. Zankich. Presently, there are no  
11 requirements for follow-up education or certification in the State  
12 of Washington.

13       CAPT CALLAGHAN: So I'm led to believe, then, that once you  
14 have it, it's good for life?

15       MR. ZANKICH: Yes, as long as you pay your due.

16       CAPT CALLAGHAN: And can any of you recall what the, the  
17 current dues are for the State of Washington?

18       MR. PARROTT: I believe they're like \$125 annually.

19       CAPT CALLAGHAN: Okay. Thank you. So, in regards to some of  
20 the tools you use in your professional engineering and your naval  
21 architecture work, is there a series of software that you  
22 particularly use regarding stability?

23       MR. ZANKICH: This is -- this is Mr. Zankich. We use GHS,  
24 General Hydrostatics. It used to be called BHS, Bill Plice (ph.)  
25 (indiscernible) program for doing our calculations and such.

1 That's the, that's the one, one stability program we use.

2 CAPT CALLAGHAN: And are, are you aware over time, you know,  
3 how it -- is, is that a continuously updated software?

4 MR. PARROTT: Yes, they're, they're continually updating and,  
5 and adding features for analysis of stability.

6 CAPT CALLAGHAN: Thank you. Would you see -- so in, in your  
7 professional opinion, would you see the -- you know, an importance  
8 in maintaining that software up to date over time?

9 MR. BRONSON: Yes, it, it -- yes, this is Mr. Bronson. Yes,  
10 and, and, and Bill Pllice and the people at GHS have made continual  
11 improvements. When it started off, it was SCEND and you had to,  
12 to send them your raw data and they developed all your the  
13 programs and sent you the results back. And eventually GHS was  
14 developed, in which now we can enter the, the data and, and do the  
15 calculations ourselves directly. It's -- it, it -- because of my  
16 background in the Navy, I saw the old Navy computer program that  
17 we, we used back in the '60s and '70s, and GHS is just hands down  
18 better than, than that. It's exquisite.

19 CAPT CALLAGHAN: Do you think you could reliably enter  
20 stability information and come up with a good stability analysis  
21 using outdated software?

22 MR. ZANKICH: This is Paul Zankich. Yes, I think you could,  
23 particularly in Bill Pllice's program. There have been -- there,  
24 there may have been very few changes to the basic formulas, things  
25 for calculating KG or GM or things like that. There's lots of



1 subprograms in there now where you can make modifications. But  
2 once you get the model made, that model hasn't changed in the way  
3 it's made in many, many years. And if you're going to run  
4 (indiscernible) under the righting arm curve or, or predict where  
5 it's going to cross the curve, I don't think that has changed in  
6 the program hardly any over the years.

7 CAPT CALLAGHAN: Okay. Thank you.

8 MR. PARROTT: This is Jonathan Parrott. We have, in the  
9 past, discovered some bugs in the system, which we've gone back to  
10 Bill Plice and his group and they've corrected and, and updated.  
11 Whether these changes are major or minor, I don't know, but I  
12 would say, if the program is -- hasn't been updated in ten years,  
13 it's probably okay. Anything older than that, there may be some,  
14 some minor computation issues in it.

15 MR. BRONSON: Oh, and this is Mr. Bronson. The -- GHS comes  
16 out with periodic updates. You get a note from them that says,  
17 here's your new version, load it.

18 CAPT CALLAGHAN: Is, is there a cost associated with the  
19 update?

20 MR. BRONSON: Yeah. If, if you're the right age, no. If  
21 you're the wrong age -- I'm -- I've been with them since about  
22 1974. Eventually they said, Bud, you've paid us enough. We'll  
23 just update your copy for free. But most people spend I think a  
24 couple hundred dollars a year updating it.

25 CAPT CALLAGHAN: Okay. Okay, gentlemen, so, as naval

1 architects and I think, you know -- so one of the most serious  
2 considerations in, in vessel design is the stability  
3 characteristics of the vessel. So looking specifically to the  
4 crabbing boats that operate on the Bering Sea, what would be the  
5 characteristic that you would be looking for in designs in  
6 general?

7 MR. PARROTT: This is Jonathan. We'd be looking at adequate  
8 free board to, to keep the water off the deck in heavy weather.  
9 Crew comfort, adequate working around the engine room, sufficient  
10 capacity so that the apex (ph.) of the vessel is within reason.  
11 And then adequate features for -- to, to maintain the safety of  
12 the crew.

13 CAPT CALLAGHAN: Okay. So, gentlemen, I'd like to ask you, I  
14 guess, to kind of walk us through the process, once you get the  
15 call to come out and assess stability for a vessel. And let's use  
16 a crabbing vessel as an example. Once you get that call, can you  
17 walk us through the process to, to create that stability  
18 instruction?

19 MR. ZANKICH: This is Mr. Zankich. It's very important to  
20 gather as much information as you can about the vessel: the  
21 vessel's shape, where the bulkheads are, where the decks are.  
22 And, and you can then create a model of the vessel in GHS. But  
23 sometimes drawings aren't available on vessels, and sometimes you  
24 have to dry dock the vessel and scan the outside of the vessel to  
25 get the shape so you can get a relatively accurate model of the

1 vessel.

2       We quite often have to go out and measure the interior of  
3 vessels to make sure things haven't moved around over the years  
4 since it was designed and built. We maintain a file here of, I  
5 don't know, ten files -- ten (indiscernible) file cabinets of  
6 drawings on vessels. And we can quite often find a sister vessel  
7 to that vessel or that vessel's original drawings to help us  
8 create the model. And therefore, once we have enough data on the  
9 model, we can go to the vessel, do what's called a dead weight  
10 survey, take the pre-boards on the vessel, we can determine how  
11 much it displaces, and then we can do a stability test on the  
12 vessel, moving weights on deck to determine where the vertical  
13 center and the longitudinal center of gravity is.

14       Once we establish that, then we can go into the GHS Program  
15 with that data and give it the standards that the Coast Guard has  
16 for these vessels. And those standards have definitely changed  
17 over the years for king crab vessels, so you have to get the  
18 current standards in there, area under the curve and max righting  
19 arm and all the limits in correctly. And then you can run it.  
20 You can look at the profile, establish how much area there is for  
21 windage, how much area there is for icing both vertical and  
22 horizontal. You have to check the pre-board, as Jonathan said,  
23 because that's one of the critical things. You have to look for  
24 downflooding points on the vessel to see where, if the vessel  
25 trims or lifts, if there's going to be any downflooding into

1 compartments in the vessel. And so it's quite a process to gather  
2 the -- enough information on the vessel to proceed with a  
3 stability evaluation.

4       Then you have to talk to the owner or the operator, what's he  
5 going to do with the boat? Is he going to carry a tremendous load  
6 of pots, and what kind of pots? Six by six, seven by seven, eight  
7 by eight? Are they going to weigh 650, 750, 850, 950? How is he  
8 going to stack them, vertically or horizontally? You have to talk  
9 to him about what liquid loads he's going to have aboard. Is he  
10 going to go out with all tanks full of fuel? Does he keep some of  
11 the tanks full of fuel all the time and basically use them as  
12 ballast? Is he going to go out with -- full of water? Is he  
13 going to go out with his crab tanks full? Does he have one, two  
14 or three crab tanks in there? Does the circulating water system  
15 on those tanks come from different pumps, or do they have alarms  
16 on them that say when they're not running?

17       It's quite a process to gather enough information to proceed  
18 with the stability review on the vessel. And Bud and Jonathan may  
19 have more to add to that.

20       MR. PARROTT: No, that pretty much covers it. The, the --  
21 what usually happens is, is our team will go out the day before  
22 the incline and visit with the vessel, make sure everything's  
23 cleaned up, boat's in good shape for the incline. Most of the  
24 boats we do now are either load line, so the ABS inspectors is  
25 there during the incline, or it's an ACSA boat, which is a U.S.

1 Coast Guard program for fishing vessels where they'll have a Coast  
2 Guard inspector aboard during the incline. But pretty much, as  
3 Paul said, it's gathering information on the boat, how the boat is  
4 operated. Primarily, really important to find out where openings  
5 are that could allow water into the watertight envelope.

6 CAPT CALLAGHAN: And you mentioned the inclining. Can you,  
7 can you just briefly tell us what's, what's required to conduct  
8 the inclining portion for that?

9 MR. BRONSON: This is Mr. Bronson. You take a known weight  
10 or weights and move them transversely, port -- centerline to port,  
11 port to centerline, centerline to starboard, starboard to  
12 centerline. You make sure that you get a straight line, that you  
13 haven't got something crazy going in there. And then, using the  
14 GHS software, it's pretty straightforward to find out what the  
15 displacement is at that particular loading condition.

16 And then, going through the vessel, you find out what isn't  
17 part of light ship, tanks that are filled, things like that, and  
18 go back and, from that, deduct what's necessary and come up with  
19 light ship. And then go back and sit down with the owners and  
20 find out what he's going to use on the vessel, what he's going to  
21 put on and off, and calculate all the different loadings  
22 conditions that are, that are necessary. IMO and the Coast Guard  
23 have a set of standard conditions that we're supposed to look,  
24 like ready for sea or live (audio skip) the grounds departure with  
25 a full load, departure with a partial load. There's a pretty set

1 -- a pretty thick set of conditions that we need to look at, and  
2 then we need to talk to the owner and find out if he's going to do  
3 anything else that's different than that.

4 CAPT CALLAGHAN: Okay. And so what would -- would you  
5 have -- what would your expectation be for revisiting a vessel to  
6 conduct a new stability examination after, say, a period of  
7 30-plus years?

8 MR. PARROTT: That's always been a contention on, I think,  
9 all the naval architects trying to figure out when the proper  
10 interval is to reincline a boat. Based on multiple studies, boats  
11 are always gaining weight, anywhere from a half a percent to a  
12 percent and a half a year. And I think ABS has come up with  
13 standards for five or ten years between looking at stability to  
14 see if there's any major weight changes. There's also -- any  
15 modifications to the boat that are beyond a certain percentage of  
16 weight of the vessel requires either a new dead weight survey, but  
17 some reevaluation of stability.

18 There are quite a few boats out there that have 20, 30 year  
19 old stability tests, and they're -- they have based on pot rates  
20 that were valid way back when. Most of the pots have gained  
21 weight significantly. And up to a couple of years ago, the Coast  
22 Guard up in Dutch Harbor had a program where they would go down  
23 and weigh the boats -- pick a couple of boats, weigh the pots that  
24 were going on the boats, compare them to the stability booklet,  
25 and if there were significant weight differences, they would hold

1 the boat until the stability booklet was updated.

2 CAPT CALLAGHAN: Okay.

3 MR. BRONSON: This is Mr. Bronson. If you look at the  
4 instructions to the master, which is one of the first pages in a  
5 stability -- studying a stability report, almost always the last  
6 line says, any changes to the configuration or the weight or --  
7 voids the stability booklet. That's one of the biggest challenges  
8 is to get people to understand that going from 200-pound pots to  
9 250-pound pots, you need someone to reexamine your stability.

10 CAPT CALLAGHAN: Okay. Can --

11 MR. BRONSON: I mean, it's not, it's not constrained to the  
12 crabbing industry. All the fishing vessels are that way.

13 CAPT CALLAGHAN: Lieutenant McPhillips, can you pull up  
14 Exhibit 36 please, particularly page 5? This is the stability  
15 instructions, directions to the master. So looking at these  
16 instructions to the master for the *Scandies Rose*, is this a  
17 standard -- is this, is this standard that you would normally use  
18 in your stability booklets?

19 MR. ZANKICH: This is Mr. Zankich. We might have it in  
20 different sequences and such and we might have several different  
21 words in here, but, but the -- the coverage of the subjects is  
22 generally the same.

23 CAPT CALLAGHAN: Is there --

24 MR. PARROTT: Yeah, we would, we would -- I mean, we would  
25 add probably a little bit more descriptive of the crab pots and,

1 and actual dimensions, but other than that, our, our letters are a  
2 little bit longer. They're a little bit more wordy, but we  
3 generally cover the same, same items.

4 CAPT CALLAGHAN: Is there a standard anywhere for what they  
5 -- what is required or what is normally included in these  
6 instructions to the master?

7 MR. PARROTT: Not that I'm aware of. There would be -- if,  
8 if the boat was a load line boat, ABS would have certain standards  
9 as to how the, the letter is written and what's included. But  
10 other than that, no, there are not.

11 MR. ZANKICH: Looking, looking at this in front of me -- this  
12 is Mr. Zankich -- I don't see any directions in here as to  
13 sequence of burn of tanks, which sometimes is critical in the  
14 conditions evaluated where you need -- you can't have -- can't be  
15 moving fuel around from one tank to another. He talks about, do  
16 not operate with a slack, partially filled hold. That's a good  
17 thing to say, but sometimes that hold has to be pumped down or  
18 pumped up.

19 And years ago, when I was writing these without a whole lot  
20 of direction from the Coast Guard, I had a line in here that said,  
21 if your crab tank is not pressed full or empty, you should put the  
22 nose of your vessel into the weather until you can either get it  
23 full or empty. Because usually in the -- that transition period  
24 from full to empty can drastically affect the operation or the  
25 stability of the vessel. So we tell the master to put his nose



1 into the weather and then pump it down or pump it up, but don't be  
2 operating with it slack.

3 We also sometimes have in here burn sequences on the tanks  
4 where we tell them, don't fill the number three crab hold forward  
5 until the number one or number two are full. You can get yourself  
6 out of trim; you can get yourself with lots of free surface. So  
7 it's really, really important to tell the operator how he's going  
8 to operate the vessel, and he may have told you how he's going to  
9 operate it, so you want to parrot back at him.

10 CAPT CALLAGHAN: Thank you.

11 Lieutenant McPhillips, you can pull that exhibit down please.  
12 So continue on, looking specifically at the *Scandies Rose* --  
13 Lieutenant McPhillips, could you please pull up Exhibit 014  
14 please, page 1? This, this was a picture of the vessel. Are, are  
15 you gentlemen familiar with the design -- such design as the  
16 *Scandies Rose*?

17 MR. ZANKICH: Looks like a house aft crabber.

18 MR. PARROTT: Yeah, it's, it's a pretty typical house aft  
19 crabber design. We actually did an incline on a sister vessel.

20 CAPT CALLAGHAN: And so, you say did an incline on a sister  
21 vessel. Does that mean you issued the stability instructions for  
22 that vessel?

23 MR. PARROTT: Yes, this would have been quite a while ago.  
24 We're not sure. We, we provided that information to the Coast  
25 Guard early on in the investigation, but I'm not -- offhand, I

1 can't remember the name of the boat or the date that we did the  
2 incline.

3 CAPT CALLAGHAN: So just looking at this particular design,  
4 will you -- can you comment on some of the particular positive  
5 characteristics in terms of stability, vessels like the *Scandies*  
6 *Rose*?

7 MR. PARROTT: I mean, one, one of the things that, that we  
8 noticed on these types of boats is because they have buoyancy back  
9 aft with the deck house and forward with the fo'c'sle, it's that  
10 they generally tend to be very stable boats. Their pot loads are  
11 limited by the ability to see out of the pilot house, so it's  
12 somewhat difficult to -- well, it used to be somewhat difficult to  
13 overload the boats. We, we -- early on, when we were doing  
14 stability, we could get the boats with their decks awash still to  
15 meet the stability criteria, and that's when we started  
16 instituting a minimum free board for the boats. But generally,  
17 the boats are very good crabbers, very -- you know, with very good  
18 stability characteristics.

19 MR. ZANKICH: What Jonathan is taking reference to I think  
20 is, as the boat heels to the port or starboard with the raised  
21 deck forward and house aft, you could pick up buoyancy as you roll  
22 to port or to starboard, whereas if they were flush decked, you  
23 don't pick it up from those two raised areas. And that'll give  
24 you interesting righting arm curves because you start to pick up  
25 that buoyancy at 30 degrees heel or 35 degrees heel or something.

1 So it pushes your righting arms out there. But it's -- these are  
2 generally very stable vessels.

3 CAPT CALLAGHAN: Okay. Conversely, what would be -- in your  
4 professional opinion, what are the -- would be the -- any negative  
5 concerns with stability of a vessel like this in -- operating in  
6 the Bering Sea or Alaskan waters?

7 MR. ZANKICH: Well, I see on the -- it must be the starboard  
8 side here, the area where they operate the -- it must be the pots.  
9 And that's unusual to have that, you might say, as low as it is.  
10 But -- so you could be pretty wet there in the sea.

11 CAPT CALLAGHAN: And so, again, looking at this photo and  
12 going to your professional opinion, what do you think operating it  
13 in the, in the waters of -- off Alaska could be the major factors  
14 that can affect erosion of positive stability for a vessel like  
15 this?

16 MR. ZANKICH: Ice, ice, ice.

17 MR. PARROTT: Either that or water on deck. A lot of these  
18 vessels have, have high wing walls. You can see where back aft of  
19 the pat hauling station, the side of the vessel goes up to the --  
20 to level with the first gear of flat pots. You can -- if, if you  
21 don't put enough frame ports into that area, you, you -- there's a  
22 possibility that you can accumulate water on deck. Typically, it  
23 wouldn't be too much of an issue with these boats, but there is a  
24 possibility of that happening.

25 CAPT CALLAGHAN: Okay. I'm going to ask Lieutenant

1 McPhillips, if you could pull up Exhibit 40 please, page 47.

2 These are the icing portions of the regulations in the Code of  
3 Federal Regulations. Okay. Has it, has it come up for you,  
4 gentlemen?

5 MR. PARROTT: Yes.

6 CAPT CALLAGHAN: Are you gentlemen familiar with these?

7 MR. PARROTT: Very much so.

8 MR. ZANKICH: Yes.

9 CAPT CALLAGHAN: And would you -- in terms of calculating  
10 stability, would you say that these are the -- the calculations  
11 here are conservative in nature?

12 MR. ZANKICH: No.

13 MR. PARROTT: I would have to agree with Mr. Zankich.

14 There's certainly been documentation that the ice accumulation is,  
15 is -- can be much greater. The icing -- these icing calculations  
16 also do not take into account the fact that icing will most likely  
17 accumulate more on one side of the vessel than the other, which,  
18 which would add a heeling moment to the, to the stability icing.

19 CAPT CALLAGHAN: So --

20 MR. ZANKICH: One of the problems with this verbiage and  
21 everything about the ice in these rules is that you can leave port  
22 -- not on a sunny day (indiscernible) but maybe -- and head out to  
23 the grounds, and you could start experiencing icing conditions,  
24 and you can't do anything about it other than get out baseball  
25 bats and try and break it, because you can't get rid of the pots

1 because they're all iced in place.

2 CAPT CALLAGHAN: Right.

3 MR. ZANKICH: And so the accumulation can continue over and  
4 over and over again, and you cannot -- you can stick your nose  
5 into the wind and try and get that off center icing that was  
6 mentioned, but that's not maybe the direction you're going to your  
7 grounds. So the fact that you started icing while you were away  
8 from the dock, another problem is you were sitting at the dock  
9 maybe for a week before you went out. The boat is cold, cold,  
10 cold, and you go out and the first spray you hit forms ice on the  
11 boat and starts locking your pots in right then. You can't get  
12 rid of them anymore. You're stuck. So you either find some way  
13 to get rid of the pots, which you can't because they're all iced  
14 in place, or you get back to a port where you get into safe harbor  
15 or somehow. You're an accident looking for a place to happen.  
16 You've got to find a way out of it.

17 CAPT CALLAGHAN: So, gentlemen, based on the assumptions for  
18 the requirements within these standards, looking at this and  
19 trying to calculate it in terms of stability, is this -- are these  
20 assumptions made, I guess, in what would be assumed as like a  
21 shoebox like assumptions where all the weight's being on vertical  
22 and horizontal surfaces? Is that approach accurate for vessels  
23 with pot loads onboard?

24 MR. ZANKICH: Well, the others can talk to that, but I've  
25 sent this Coast Guard group that you're in photographs of pots

1 that were iced, and they look like a solid block of ice. And I've  
2 also see [sic] on your site advertising this meeting we're  
3 partaking in, the lead-in photographs show a tremendous load of  
4 ice on top of pots on the deck of a vessel. And that's not the  
5 way this calculation is done. This is done on horizontal and  
6 vertical surfaces. And there's a whole lot of other things going  
7 on on that boat and inside of a pot.

8 And I and Bud and Jonathan have all looked, I think, since we  
9 first talked about this several months ago at a pot -- and like I  
10 said, I sent you photographs of a pot that was literally solid  
11 ice. And I made a sample, as bad as it is, calculation of a pot  
12 and the amount of wires and the amount of pipes in that pot, and I  
13 easily, easily came up with additional 300-plus pounds of weight  
14 to that pot formed by ice, which far exceeds if you were just  
15 doing the shoebox approach to that pot.

16 And subsequently -- maybe I'm way ahead of your interview  
17 here, but subsequently, you can't do a calculation and say that  
18 the boat rolled over or didn't roll over from ice. But if you  
19 start adding 3- or 400 pounds of ice to every pot on that vessel  
20 -- and I don't remember how many were on this vessel; it was a  
21 bunch -- I wouldn't be surprised if you were to run that GHS  
22 calculation and put that additional 3-, 400 pounds in there for  
23 every pot, this vessel might well have roll over.

24 CAPT CALLAGHAN: Lieutenant McPhillips, can you please pull  
25 up Exhibit 93 please, page 1? So this is not the *Scandies Rose*,

1 gentlemen, but this is a photo that we were provided aboard a crab  
2 vessel showing -- demonstrating some of the icing conditions. So  
3 looking at this photo, gentlemen, does this represent the  
4 standards outlined in the current regulations?

5 MR. ZANKICH: Speak up, Jonathan.

6 MR. PARROTT: Well, I mean, it looks like this is just  
7 surface ice on those pots or whatever structure that is, and that,  
8 in itself, would probably be pretty close to what the regulations  
9 show. What the issue is is with crab pots is that they can  
10 accumulate ice on the inside of the pots, and if you've got wind  
11 and weather coming from a certain direction, the pots on that side  
12 are going to be heavier, are going to accumulate ice -- more ice  
13 in it than pots on the other side.

14 I just pulled up a picture of a boat that has icing in it,  
15 it's a house aft crabber, and apparently -- I would say the  
16 weather's coming in from the port bow side, because forward, the  
17 pots are just -- I mean, you can't see the pots because of the  
18 ice, but aft of the crane, you can see the ice. There's some ice  
19 accumulation on pots, but it's less as it goes further aft, so  
20 I -- you know, calculating icing on pots is going to be very  
21 difficult, because it's such a random event, and the effects are  
22 so dependent on vessel heading and a number of factors. It's,  
23 it's, it's difficult.

24 CAPT CALLAGHAN: Okay. Lieutenant McPhillips, can you pull  
25 up Exhibit 46 please? This is the Marine Safety Alert regarding

1 stability. So, looking at this, is this more what's referred to  
2 as the blocks of ice in the -- in that picture on the first page  
3 there?

4 MR. PARROTT: That's exactly -- I'm looking at a partial view  
5 of that exact same picture. You can see that, aft of the crane,  
6 the pots have less accumulation of ice than that -- I mean, it's  
7 just one block of ice forward. But that is the picture that I was  
8 looking at on the internet.

9 CAPT CALLAGHAN: Thank you. And so, Lieutenant McPhillips,  
10 if you can zoom out. I just want to gauge, so are you -- have you  
11 gentlemen all seen this document before?

12 MR. ZANKICH: I think I got a copy of this from a lawyer in  
13 Alaska, and I think I forwarded it on to your committee, because I  
14 think this is the one that takes reference to the fact that you  
15 could tarp the pots. But maybe it isn't. Maybe it's another one  
16 of these.

17 CAPT CALLAGHAN: Okay. And you bring up the issue of tarping  
18 the pots. So, in your professional opinions, would tarping the  
19 pots add benefit? And if so, can you talk to that? And if not,  
20 what would be the hazards of that?

21 MR. ZANKICH: Well, it's a maybe or maybe not. You can tarp  
22 the pots and then you can calculate per that IMO or Coast Guard  
23 rule about so many inches of ice. You can still get more ice than  
24 that, however, but at least you're not dealing with the interior  
25 of the pots being iced and iced and iced and iced. But how do you



1 -- and I know my customers, maybe the others, would be, wow, how  
2 are we ever going to tarp the pile of pots?

3 And I guess you'd have to do that when you leave port, so you  
4 could tarp them in port and only cover -- under -- uncover  
5 particular areas, and then, as you restack parts -- pots, you'd  
6 have to start tarping over those pots also. Fortunately, pots  
7 have lots of areas where you can put hooks to hold tarps. But the  
8 -- but that ice accumulation in that picture that's on the screen  
9 here is, like I say, an accident looking for a place to happen.

10 MR. BRONSON: This is Mr. Bronson. If I could add a couple  
11 of comments. First, the idea of tarping all of these is an  
12 interesting phenomenon, but I deal, and have for years, done ocean  
13 racing with large sailboats. Handling a 2,000-square-foot piece  
14 of canvas in a wind with ice and all that in addition, I think  
15 that's a disaster that's even worse than the problem with the pipe  
16 -- with the, with the ice. I can see crew getting thrown  
17 overboard trying to, trying to control that. We're not talking  
18 about doing this under nice conditions but in terrible conditions,  
19 and to have a 40-by-40 piece of canvas running around is not  
20 something I would like to do.

21 MR. ZANKICH: Unless you were to do it, Bud, before you left  
22 port and then take it off if you don't have icing conditions  
23 coming up.

24 MR. BRONSON: Okay. But, eventually, you're going to have to  
25 take that tarp off.

1 MR. ZANKICH: Yeah.

2 MR. PARROTT: And you're not going to take it off in port;  
3 you're going to take it off at sea. And you've got to have fairly  
4 calm conditions, and that is not the North Pacific.

5 CAPT CALLAGHAN: Okay. And referring back to that Marine  
6 Safety Alert following the casualty on the fishing vessel  
7 *Destination* just a few years back, have any of you or your  
8 companies shifted any of the work that you do in regards to  
9 stability on crab vessels, vessels of similar design since that  
10 casualty or since any of these alerts have come out?

11 MR. BRONSON: I haven't done any crabbers in the last five to  
12 eight years.

13 MR. ZANKICH: We haven't modified our standards or the way we  
14 treat things in quite a few years, and not since -- definitely not  
15 since the *Scandies Rose*. We were awaiting the guardians of the  
16 coast -- I'm sorry, the Coast Guard to tell us what went on.  
17 Fortunately, in this case, they had a couple of survivors, so  
18 maybe we know, maybe, what went on. But we were waiting before we  
19 made modifications for here.

20 MR. PARROTT: One of the things that's happened to our  
21 calculations in the last 12 to 18 months is that ABS has now  
22 required us to add in the icing of the forward superstructure to  
23 the calculations, in addition to the side profile and the  
24 horizontal areas. So that, that's the only change that I'm aware  
25 of in the last two years on stability calculations.

1       CAPT CALLAGHAN: Okay. And, when you refer to the forward  
2 portion of the superstructure, are you -- the bow section and  
3 astern, astern house vessel? Is that what you're referring to?

4       MR. PARROTT: That would be like the front of the  
5 superstructure of the aft part of the vessel.

6       CAPT CALLAGHAN: Okay. And so kind of thinking over the --  
7 some of the pictures we just looked at with regards to icing, and  
8 while the last two were pretty extreme, some of you had mentioned  
9 some experience on vessels out in that area. What are the -- you  
10 know, what would be some normal icing conditions as far as ice  
11 accumulation that would be assumed as fairly normal conditions  
12 while underway?

13       MR. ZANKICH: I surely can't say because I've only been out  
14 to Dutch Harbor half a dozen times, and I wasn't aboard a boat. I  
15 was there to do tests on boats. I should note, even at this port,  
16 in 1977, Dr. Storch of the University of Washington wrote a  
17 (indiscernible) paper about Alaska king crab boat casualties. He  
18 reviewed 300 vessels, and he said were -- a significant number  
19 were built from '67 to '74, and they had 107 casualties. And in  
20 this paper, which is quite a few pages, only one or two mentions  
21 of ice or even icing are listed in the 13 cases that he "detaily"  
22 covered. You should read that paper. I don't know what happened  
23 from '67 to '74 or in '77 when he wrote this paper. Maybe global  
24 warming came along, and we started having a lot more icing, but we  
25 didn't have any icings back then. I don't know why.

1       CAPT CALLAGHAN: Thank you. I'm going to shift a little away  
2 from the ice and talk -- go back to something you mentioned  
3 earlier with regards to pot weight and determining the number of  
4 pots that the vessel can carry. So, as naval architects, how do  
5 you account for the weight of pots and the gear in your stability  
6 calculations?

7       MR. ZANKICH: We ask the owner what size pot he's got, how  
8 many fathoms of line he's got in there, how many buoys that he  
9 stores in there. And we'll even ask him to go and weigh one like  
10 the Coast Guard asks.

11       CAPT CALLAGHAN: And how important is it that those pots and  
12 gear are correct in terms of the weight that they provide you?

13       MR. PARROTT: Well, they're very important.

14       MR. ZANKICH: Very important.

15       MR. PARROTT: Yeah. The -- I mean, you need to get as  
16 accurate information, weights and dimensions so that, you know,  
17 that you can put the realistic loads on the boat and run it  
18 through the stability conditions to make sure the conditions meet  
19 the criteria.

20       MR. BRONSON: All of this weight is above the center of  
21 gravity. It's just decreasing transverse stability. It's vital.

22       CAPT CALLAGHAN: And so, once they -- once you have pot  
23 weights, in moving forward to create that -- the stability  
24 instructions, how do you determine, then, how many of the pots can  
25 be carried?

1 MR. BRONSON: Well, I -- when I have done that, I have done a  
2 little sketch that laid out where on the vessel the pots were  
3 going to be, whether they were going to be stacked vertically or,  
4 you know, horizontally, but generally, the bottom stack is all  
5 verticals and then you lay horizontal layers on top. You do a  
6 weight moment study of the pots and how that affects the center of  
7 gravity and then run your transverse stability calculations and  
8 see if that meets the energy needs.

9 MR. ZANKICH: And you consult with the owner. He's got to  
10 tell you what he's planning on doing.

11 CAPT CALLAGHAN: And so, once you've calculated the number of  
12 pots and indicated that, can a vessel carry items on top of the  
13 stack of pots? And, if so, how would you account for that weight  
14 ensuring the vessel was stable beyond that?

15 (Simultaneous speaking.)

16 MR. ZANKICH: Only if he asked for something up there would  
17 we have it in the, in the calculation.

18 CAPT CALLAGHAN: So interpreting that, then it would be  
19 something that would have to be included in the initial  
20 calculations ahead of time?

21 MR. BRONSON: Yes, yeah.

22 CAPT CALLAGHAN: Okay. Gentlemen, we have been going for an  
23 hour and -- almost an hour and 15 minutes now. Would you  
24 gentlemen like to take a short recess at this point, or are you  
25 good to go -- keep going for a little bit?

1 MR. ZANKICH: I'd like to go pump the bilge for a minute.

2 CAPT CALLAGHAN: Okay. Let's go ahead and take a five-minute  
3 recess. The time is 0943. We will resume at 0948.

4 (Off the record at 9:43 a.m.)

5 (On the record at 9:49 a.m.)

6 CAPT CALLAGHAN: Okay. It's 0949. The hearing is back in  
7 session.

8 Welcome back, gentlemen. Just want to kind of go  
9 back -- Lieutenant McPhillips, can you please just pull up Exhibit  
10 014 please, page 1, just to have for referencing the configuration  
11 of the *Scandies Rose*?

12 So, gentlemen, in kind of -- in taking a look at the profile  
13 of the vessel and also looking at -- going back to our discussion  
14 on icing, we're trying to get an understanding of the effects an  
15 icing will have on a vessel with a pot configuration of this sort  
16 and if -- I guess my, my general question is, as the vessel's  
17 proceeding and making headway and starts to take on freezing  
18 spray, is there a point where the ice accumulation on the pots  
19 could then essentially serve in a function where it shifts, shifts  
20 the stability to a degree where -- that, that isn't -- is not  
21 recoverable?

22 MR. BRONSON: So I think the simple answer is yes. If you  
23 look at where those pots are with them empty right now, there's a  
24 lot of air above the main deck. If you start putting ice in  
25 there, the center of gravity is continually rising. Eventually,

1 you're going to raise it high enough above to where the vessel may  
2 roll over.

3 MR. PARROTT: That would especially be exaggerated if the,  
4 the ice is accumulating on one side more than the other instead of  
5 a uniform accumulation of ice about --

6 MR. ZANKICH: That's why I mentioned earlier that the master  
7 may want, may want to put his nose into it to, to try and go that  
8 way if he can to keep himself from getting a list.

9 CAPT CALLAGHAN: Okay. And, and if they go from -- if they  
10 were going from a condition where they had been previously  
11 receiving freezing spray, taking wind off -- wind and swells off  
12 one side, and over time -- and so, take, you know, heeling --  
13 taking into account the wind heel from the direction of the wind  
14 and then starting to take on freezing spray on the same side,  
15 could that -- where would you expect the, the ice accumulation to  
16 start?

17 MR. BRONSON: When you look at the track of the *Scandies Rose*  
18 once she came out of -- on, on the north end of Kodiak Island and  
19 turned, she was going southwest and the winds were from the  
20 northwest. To me, it's perfectly reasonable to expect that most  
21 of the ice will be on the starboard side. And, at some point, you  
22 build enough up, you'll roll over, which is apparently what  
23 happened in this case.

24 MR. ZANKICH: Looking at this profile of the boat, on the  
25 foredeck, there's a break water or a wave breaker or whatever it

1 is. There'll be a massive accumulation of ice up there very  
2 quickly on that foredeck, and then the -- it'll progress into the  
3 pots.

4 CAPT CALLAGHAN: And so --

5 (Simultaneous speaking.)

6 MR. ZANKICH: -- nose into the wind.

7 CAPT CALLAGHAN: And just two questions then there, so in  
8 that case, if she's got some wind heel with -- taking ice  
9 accumulation from the, from the prevailing winds, then would there  
10 be a point where the accumulation could then shift enough to where  
11 it shifts the stability from one side to the other?

12 MR. ZANKICH: I don't understand the question.

13 CAPT CALLAGHAN: For example, if she had a port list and  
14 started taking freezing spray from the starboard side, would there  
15 be a point where ice accumulation would shift -- would be enough  
16 to shift, shift the list of the vessel over to starboard?

17 MR. ZANKICH: I presume so.

18 MR. BRONSON: Probably, yes.

19 CAPT CALLAGHAN: And then my second question, looking at the  
20 profile of the vessel here, as you mentioned, the ice may  
21 accumulate in different fashions along the profile of the vessel.  
22 From the vantage point of the pilothouse, do you -- does the -- do  
23 you think the person at -- in the pilothouse has the -- an  
24 accurate reflection of what that accumulation is beyond the stack  
25 of pots?



1 MR. ZANKICH: Well, your question was about ice. But I look  
2 at this profile, and that pile of pots is too high for the captain  
3 of that vessel to see two boat-lengths ahead of his vessel in the  
4 water. He can't see. So all he can see is an icebox in front of  
5 him, and he can't see what's going on up there. So as far as  
6 icing, you know, he can see it happening from his wheelhouse, but  
7 he can't see up in the front. There's a couple guys standing on  
8 the bow of this thing, but they're not going to be standing there  
9 if they're icing. They're running for cover. And so he can't see  
10 what's going on on the front of that pile of pots. And he can't  
11 see over that pile of pots is what I mentioned also.

12 CAPT CALLAGHAN: And, earlier on, one of you gentlemen had  
13 mentioned one of the limiting factors in the number of pots,  
14 particularly on vessels of this design, pertains a lot to -- with  
15 the visibility from the pilothouse. Based on your professional  
16 experience, looking at this profile, what would your assessment be  
17 in the number of pots and, and the -- bridge visibility aboard the  
18 *Scandies Rose* at this time?

19 MR. ZANKICH: It's too damn many.

20 MR. BRONSON: It looks like that top whole layer should come  
21 off, in my opinion, for him to be able to see forward.

22 CAPT CALLAGHAN: Okay. Gentlemen, at this time -- because I  
23 think there's a lot of great questions, and this discussion has  
24 been very informative, but I -- what I would like to do at this  
25 point is I'd like to shift questions -- I know my colleague from

1 the National Transportation Safety Board has some questions for  
2 you, so I'd like to pass it over to Mr. Barnum from the National  
3 Transportation Safety Board at this time.

4 Mr. Barnum?

5 MR. BARNUM: Thank you, Captain.

6 And thank you, gentlemen. A lot of great, great information  
7 here, very insightful. I appreciate it. I know I'm learning a  
8 lot. I'm sure the public is as well. Kind of -- I'm going to  
9 kind of skip around. The Captain covered a lot. I do have a few  
10 follow-ups.

11 First off, I wanted to bring up, let's see, Exhibit -- the  
12 regulations and talk about the regulations governing again --  
13 40 -- 40 please. And if we can go to page 45. Okay. So here,  
14 here discusses -- this is Title 46 C.F.R. 28 Subpart E Section 28  
15 here, paragraph 530. So in you -- in your understanding, are  
16 these the regulations that the *Scandies Rose* would have -- would  
17 fall under for their stability?

18 MR. BRONSON: I believe so.

19 MR. PARROTT: Yes.

20 MR. BARNUM: Okay. I just --

21 MR. ZANKICH: Yes, but Subchapter 28 didn't come out, maybe,  
22 when the boat was built.

23 MR. BARNUM: Understood.

24 MR. ZANKICH: We naval architects kind of were alone out here  
25 for years writing our own standards, like using Rahola or, or

1 other standards to make instructions for boats. And we did not  
2 have -- and I don't think *Scandies Rose* had this in her previous  
3 (indiscernible) book.

4 MR. BARNUM: Okay. A vessel having a major modification,  
5 though, I believe would have to fall under these stability rules?

6 MR. ZANKICH: Yeah.

7 MR. PARROTT: That would be yes.

8 MR. BARNUM: Yeah. Okay. I just wanted to read a part of  
9 this and get your feedback on it. So mid-way down this first  
10 paragraph says, "The rules provide maximum flexibility for owners  
11 and qualified individuals to determine how this information is  
12 conveyed, taking into consideration decisions by operating  
13 personnel must be made quickly and that few operating personnel in  
14 the commercial fishing industry have been -- have had specialized  
15 training in stability. Therefore, stability instructions should  
16 take into account the conditions a vessel may reasonably be  
17 expected to encounter and provide simple guidance to the operating  
18 personnel to deal with these situations."

19 So the stability instructions the three of you complete for  
20 these, these similar vessels, where would -- what kind of simple,  
21 specialized, you know, guidance that is mentioned here, where  
22 would that be included in your stability instructions?

23 MR. BRONSON: In my -- in the booklets that I would prepare,  
24 they would be in the -- in the instructions to the master.

25 MR. BARNUM: Okay.

1 MR. BRONSON: And, if it were the type of the vessel that  
2 might have to go back and calculate another loading condition,  
3 there might be a separate section of the stability book that  
4 showed how to calculate another loading condition that's not part  
5 of the booklet.

6 MR. BARNUM: Understood.

7 MR. ZANKICH: As an aside to that, nowadays, many -- I won't  
8 say all, but many fishing vessels have a computer in the  
9 pilothouse. And we, Columbia-Sentinel, probably Jensen, probably  
10 others, have been known to provide an Excel spreadsheet on that  
11 computer with all the tankages, and they put in how much percent  
12 is in every tank and the deck load or how many pots are on deck.  
13 We can do that now with an Excel spreadsheet, and we could even  
14 put on that Excel spreadsheet how many inches of ice they're  
15 expecting based upon the horizontal or vertical surfaces where  
16 they're seeing, and that could have a block down in the corner  
17 that says safe or unsafe.

18 MR. BARNUM: Okay. All right. So, in your opinions, would  
19 you consider a vessel operated in the Bering Sea, Aleutian  
20 Islands, such as the *Scandies Rose* crabbing vessel, would you  
21 consider icing accumulation to be one of the possible conditions  
22 that a -- that vessel could encounter?

23 MR. PARROTT: Definitely.

24 MR. BRONSON: Yes.

25 MR. ZANKICH: Yes, if the master said he was going north of

1 that latitude.

2 MR. BARNUM: Okay. And I, and I understand that the  
3 regulations factor in to margin for icing. That I want to discuss  
4 in a minute there. But would, would you feel that it might be  
5 important to include some sort of guidance on icing in those  
6 instructions to the master you -- that you mentioned?

7 MR. PARROTT: Typically, when we issue our booklets, we have  
8 a description of hull icing. Gives -- basically says that it has  
9 so many inches on vertical surfaces, so many inches on horizontal  
10 surfaces, and equivalent weight. And we also put in there that  
11 icing can easily be in excess of, of these numbers.

12 MR. BARNUM: Okay. Great. Thank you. All right. I --

13 MR. PARROTT: Typical of Paul's stuff too.

14 MR. BARNUM: Okay. Lieutenant McPhillips, could you please  
15 bring up Exhibit No. 36, page 5?

16 Gentlemen, this is the 2019 stability instructions for the  
17 *Scandies Rose*. Page 5 is the instructions to the master. I know  
18 you've already looked at this under Commander -- Captain  
19 Callaghan's line of questioning, but is there anything on here  
20 instructing the master or alerting the master to any icing --  
21 special icing conditions?

22 MR. PARROTT: The only icing mentioned is in item two.  
23 Basically, it gives -- it just says it applies for icing or  
24 non-icing conditions. It doesn't really describe what an icing  
25 condition is.

1 MR. PARROTT: All right. Mr. Parrott, would, would stability  
2 instructions issued by your firm contain a more detailed  
3 description?

4 MR. BARNUM: Yes, it would.

5 MR. BARNUM: Okay.

6 MR. PARROTT: It would, it would give the -- as I said, it  
7 would say, say that there's approximately so many inches of ice on  
8 the vertical surface, so many inches of ice on a horizontal  
9 surface, and it's equivalent of so many pounds of added weight in  
10 ice.

11 MR. BARNUM: Okay. Thank you. And going to back to the  
12 exhibit for regulation -- sorry, Lieutenant McPhillips, for  
13 jumping around some, but could you bring that one back up? That's  
14 Exhibit 40.

15 And I wanted to just get your professional explanation of the  
16 Section 550 on icing. We've been talking a lot about accumulation  
17 of icing on these vessels. Could one of you just, you know,  
18 explain to us the amount of icing that regulation -- the amount of  
19 icing that the regulations account for onboard these vessels that  
20 operate in this area?

21 MR. ZANKICH: Yeah, it's pretty clear, item 28.550 --

22 MR. BARNUM: Yeah.

23 MR. ZANKICH: -- (a), (b) -- I guess it's (b) (1) says 1.3  
24 inches on horizontal. I guess I can't read the next one down.  
25 Oh, there it is.

1 MR. PARROTT: 0.65 inches of, you know, vertical.

2 MR. ZANKICH: 0.65 inches on vertical.

3 MR. BARNUM: Okay. And Commander -- Captain Callaghan  
4 mentioned it earlier, this is a boat full of crab pots, a stack of  
5 pots. This would be -- you know, how would you apply these  
6 numbers to a stack of pots given this guidance from the  
7 regulations?

8 MR. BRONSON: That exact --

9 MR. BARNUM: How would you treat it?

10 MR. BRONSON: You, you have a -- I, I would have a diagram or  
11 a drawing of the vessel that showed where I was going to put pots,  
12 and I would calculate the surface area that's vertical and that's  
13 horizontal and apply those numbers on there and, using a weight  
14 moment calculation, see what that did to the center of gravity

15 MR. ZANKICH: That's the shoebox method, right?

16 MR. BRONSON: Yes.

17 MR. BARNUM: Okay.

18 MR. BRONSON: And, and therein lies the challenge is that  
19 this presumes that that box -- that shoebox of crab pots is a  
20 shoebox. It's not a shoebox. It does not have a horizontal and a  
21 vertical surface. It has a bunch of pots in there that are just  
22 screens. As the water comes over the top, it's not going to lay  
23 on the top layer of the top on a bunch of pots. It's going to  
24 slowly filter down through all of them. And, and there's the  
25 challenge that we have is we don't have any good information on

1 how that happens.

2 MR. BARNUM: Right.

3 MR. ZANKICH: Now both Bud and I and Jonathan, I think, in a  
4 subsequent -- or in a meeting we had, telephone call, the subject  
5 came up of this, and I think we all suggested that the Coast Guard  
6 should contract with a university or a wind tunnel or the Navy or  
7 somebody to take a crab pot or a bunch of them and put them in a  
8 wind tunnel with wind and put them with spray and see what really  
9 happens to a pot.

10 Although, we can tell you what's going to happen. We've got  
11 photographs of pots that are nothing but ice. But to see how  
12 quickly it can accumulate in a -- pick a number, a 40-knot wind at  
13 15 degrees out. And if we had some of this data, maybe the Coast  
14 Guard could revamp their IMO standards here, which are clearly not  
15 real life in the North Pacific.

16 MR. BARNUM: Understood. Have, have any of you heard of any  
17 kind of studies that have taken -- that have gone on, you know,  
18 previously in trying to address that same -- figure out that same  
19 issue?

20 MR. ZANKICH: Not I.

21 MR. PARROTT: There are a couple of studies from way back in  
22 the '70s that were, I believe, NOAA studies about the icing in  
23 the, in the Pacific Northwest and icing during spray. I'm not  
24 sure -- I came across them when I was cleaning up the -- oh, here  
25 we go. They were -- I found -- cleaning up the office, I found



1 three different studies: icing of ship, splashing a ship with  
2 spray. It was done by the Pacific Marine Environmental Lab NOAA  
3 in 1986. They did another study, vessel icing in Alaskan waters,  
4 1979 to 1984. It's a dataset that was published in 1985. And  
5 then there was another article -- or a paper, prediction of vessel  
6 icing, that's a reprint from the Journal of Climate and Applied  
7 Meteorology in December of 1986. None of those, I suspect,  
8 specifically address pots. They're more on vessel, vessels  
9 themselves.

10 MR. BARNUM: Understood. Great. Thank you.

11 MR. BRONSON: The, the U.S. Navy has a publication on --  
12 talks about icing of vessels, and the challenge is that they're  
13 all solid surfaces. They're not -- there's -- no one has ever  
14 really looked at the crab pot problem.

15 MR. BARNUM: Understood. One, one follow-on question, my  
16 last question here to you Mr. Bronson. You had mentioned earlier  
17 you had taught some stability classes. Could you elaborate on  
18 that some please?

19 MR. BRONSON: We lost two boats back in the late '80s. Two  
20 boats were lost up in Alaska, and the North Pacific Fishing Vessel  
21 Owners Association was established, started doing a lot of things  
22 to try and address some of the education of crews. They did some  
23 exquisite medical training and all like that. One of the things  
24 that we did was, four or five years, we -- and they may still be  
25 teaching it; I just don't do it now. For five years, I taught a

1 one-week course on ship stability. We took a typical Northwest  
2 fishing vessel -- I don't recall whether it was a crabber or which  
3 particular type it was, but we took a vessel, an actual vessel  
4 that I had done some stability work on and we used that and we  
5 showed them how to calculate different loading conditions.

6 And we talked about icing, but the challenge even then was we  
7 really didn't -- we don't -- we really don't and didn't have any  
8 good information on how a crab pot ices, so we used the IMO  
9 criteria, which says, use the outside of the crab pot. And a crab  
10 pot isn't really a box. It's this sieve that collects ice all  
11 through it.

12 MR. BARNUM: Understood. Great. Thank you, gentlemen. I  
13 really appreciate it.

14 Captain, I'm all set.

15 CAPT CALLAGHAN: Thank you, Mr. Barnum.

16 Gentlemen, I'm now going to ask the PII if they have some  
17 follow-on questions for you, so I'll turn to PII -- counsel  
18 representing the two survivors.

19 Mr. Stacey, do you have any questions, sir?

20 MR. N. STACEY: Good morning, gentlemen. Thank you very much  
21 for your testimony and your work. We have no questions.

22 CAPT CALLAGHAN: Thank you, Mr. Stacey.

23 Now turn it over to counsel representing the vessel owners,  
24 Mattsen Management Company.

25 MR. BARCOTT: Thank you, Captain.

1       Gentlemen, thank you. My name under my screen says Daniel  
2 Barcott. This is Mike Barcott. I'm using Daniel's computer  
3 for -- technical issues arose.

4       I know the Board, of course, knows this, but the general  
5 public may not. Could you explain how it is the three of you came  
6 to be providing testimony to this Court?

7       MR. ZANKICH: This is Paul Zankich. I recall getting a call  
8 from Bud, and Bud said, are you aware the Coast Guard's going  
9 to -- scheduling a -- or is doing an investigation. And I said,  
10 no, but they ought to. And I went to my computer, and I clicked  
11 on Coast Guard Investigation *Scandies Rose*, and Mr. Callaghan's  
12 name, as I recall, came up. And I called San Francisco and said I  
13 wanted to talk to him, and I did. And he referred me to one of  
14 the people that was working on this situation.

15       And I called Bud back and said, Bud, she -- I think it was a  
16 she -- wants to know if you're interested in talking to them. And  
17 he said yes. Then I called Jonathan and said, I could get you in  
18 trouble really quickly. Would you, would you like to talk to the  
19 Coast Guard on this subject, also, with Bud and I? And he,  
20 voluntarily, said, yes, I'm very interested. And we called back  
21 to whoever that was and set up a phone call.

22       MR. BARCOTT: So if, if I characterize it as you are three  
23 interested citizens with specialized knowledge who are  
24 volunteering your expertise to the industry, is that a fair  
25 assessment of what you're doing?

1       MR. ZANKICH: Well, it -- let me make a statement here. If  
2 you're a crabber, you have to believe the Coast Guard standards.  
3 You have to believe the IMO standards. You have to believe your  
4 naval architect. All of these three beliefs need review in this  
5 inquiry because we are the naval architects who are asking our  
6 owners and operators to believe, and we rely upon the Coast Guard  
7 standard to believe and the IMO standard to believe. And  
8 honestly, I don't believe those standards now.

9       MR. BARCOTT: Mr. Parrott or Mr. Bronson, care to comment on  
10 that?

11       MR. BRONSON: I think he reasonably describes our problem.  
12 We understand how the IMO came up with the, the standards they  
13 have for icing, but the crab fishery in the Northwest Pacific is  
14 significantly different than anywhere else. I've, I've done work  
15 everywhere from Northern Europe, China; I'm doing work now down in  
16 New Zealand. This fishery is different than all of the others in  
17 that we have this lovely device called a crab pot, which we all  
18 love because we love Alaska king crab and all that jazz. But it  
19 doesn't behave the way we're told we should apply this -- the  
20 rules.

21       At least from my own point of view, I've had a master's  
22 license, I've sailed, I've been up there, I've done tuna fishing.  
23 I want those guys to come back -- and with apologies to the  
24 ladies, I want those guys and gals to come back. I want the stuff  
25 that I -- the work that I do, I want them to give them a chance to

1 come back alive. And, with the king crab pots right now, I don't  
2 want to restrict them if I don't have to, but I sure would like to  
3 make sure that the information I'm giving them is the best chance  
4 to come back alive.

5 MR. BARCOTT: Yeah, I'm sure we all.

6 Mr. Parrott?

7 MR. PARROTT: Well, I mean, we're talking about king crab  
8 pots, but, I mean, pot fishing is expanding into other fisheries.  
9 It's -- lingcod fishing, they use pots now because apparently the  
10 orcas have gotten smart enough to know that long lines is a buffet  
11 for them. So the -- pot fishing is going to expand and there are  
12 going to be more people doing it. People -- you know, crab  
13 fishermen have been doing it for years. They're familiar with --  
14 generally familiar with how pots affect the stability of their  
15 boats. Some of these new fisherman may not have that. So, you  
16 know, we need to be aware of the, the pitfalls of new crew coming  
17 into the -- into this -- this pot fishery.

18 MR. BARCOTT: So the members of the Board, of course,  
19 understand the next area I'm going to go into, and I understand  
20 that area, but I'm not sure the public does, and your testimony  
21 has been helpful. But I'd like to make it crystal clear, when a  
22 stability study for a vessel like the *Scandies Rose* is done,  
23 according to the current regulations, does it assume that ice  
24 accumulates on the outside areas of the pots only?

25 MR. PARROTT: Correct.

1 MR. BARCOTT: I'll stop there. Let me stop there. Is that  
2 one of the assumptions?

3 MR. PARROTT: That is correct.

4 MR. BARCOTT: Okay. And does it assume that that ice will  
5 accumulate on vertical surfaces to six-tenths of an inch?

6 MR. ZANKICH: Yeah, it's 0.6 or 0.65 or some number.

7 MR. BARCOTT: Right. And the horizontal surfaces, the top of  
8 the crab stack, does it assume that ice will accumulate on the top  
9 only and how much ice?

10 MR. PARROTT: It's 33 millimeters.

11 MR. BRONSON: Inch to about an inch and a half.

12 MR. PARROTT: Inch, to an inch and a half.

13 MR. BRONSON: Something less than that.

14 MR. BARCOTT: And you've talked about a shoebox, and the  
15 concept of a shoebox has been used, but again, I want to make sure  
16 this is really understandable. If you put a giant shoebox over  
17 the stack of crab pots and accumulated ice on that shoebox,  
18 six-tenths of an inch on the vertical surfaces and 1.3 inches or  
19 so on the horizontal surfaces, is that what the regulations tell  
20 you to do in calculating icing?

21 MR. PARROTT: That's the guidance it provides, yes.

22 MR. BARCOTT: Okay. And does -- do the regulations also  
23 assume that that ice will accumulate uniformly over those  
24 surfaces?

25 MR. PARROTT: It does.

1 MR. BARCOTT: Okay.

2 MR. BRONSON: On the average, I would say.

3 MR. BARCOTT: Right. But there is no accounting in the  
4 regulations for uneven distribution of ice, as I understand it; is  
5 that right?

6 MR. ZANKICH: That's true.

7 MR. BARCOTT: Okay. So, in the regulations, is there any  
8 consideration given for the water that drips down into the middle  
9 of that crab pot stack and ice accumulates?

10 MR. ZANKICH: No.

11 MR. BRONSON: There isn't, not to my understanding.

12 MR. BARCOTT: Okay. So I'd like an answer to this question  
13 from each of you, if you would. The regulations that dictate how  
14 stability studies are to be performed in icing conditions, how do  
15 those match the reality of crab fishing in the North Pacific?

16 MR. BRONSON: Well, that's my question is I, I don't believe  
17 it's accurate, and I want to know what the -- how do we really  
18 apply something in that area? What, what really happens?

19 MR. BARCOTT: Mr. Zankich, reality versus regulations, how do  
20 they match up?

21 MR. ZANKICH: Well, I, as a naval architect, don't believe  
22 the regulation.

23 MR. BARCOTT: Mr. Parrott?

24 MR. PARROTT: I believe the, the regulations provide minimal  
25 guidance in the application of ice. I don't think the -- I know

1 that there are situations where the boats will be out, and they  
2 will accumulate much more ice than the regulations provide  
3 guidance for.

4 MR. BARCOTT: Okay. And I understand from what you said,  
5 Mr. Parrott, earlier that you may actually provide information  
6 when Jensen does stability studies that, that accounts for  
7 additional accumulation of ice beyond what the regulations call  
8 for; is that right?

9 MR. PARROTT: Well, what we do is we indicate in our  
10 stability letters that the regulations -- the guidance there is a  
11 certain accumulation of ice on, on the shoebox and that -- we  
12 usually have a final statement in there that, that accumulation of  
13 ice will -- can be in excess of this guidance and that the master  
14 should take that into account.

15 MR. BARCOTT: Okay. But since Mr. Bronson has pointed out  
16 there are no good studies on exactly how much additional ice  
17 accumulates, do you have good quantitative data to provide to your  
18 captains as they consider additional icing?

19 MR. ZANKICH: No.

20 MR. PARROTT: No, we do not.

21 MR. BARCOTT: Okay. Mr. Bronson or Mr. Zankich, did you want  
22 to comment on that additional information to the operator?

23 MR. ZANKICH: Not as we presently address it, but I've seen  
24 -- there are methods out there now with Excel spreadsheets and  
25 such. We could possibly do that, but they would probably also



1 assume the shoebox until we hear more about the mesh (ph.) box.

2 MR. BARCOTT: Right.

3 MR. ZANKICH: So we would gain maybe a little with, with the  
4 spreadsheet telling them, if you got two times this ice, are you  
5 safe or unsafe, or you got three times this ice, are you safe and  
6 unsafe. But that doesn't account for the mesh box.

7 MR. BARCOTT: Right. Gentlemen, I really appreciate you  
8 coming forward. This is very helpful. Thank you.

9 Those are all the questions I have, Captain.

10 CAPT CALLAGHAN: Thank you, Mr. Barcott.

11 So, gentlemen, I am -- would like to answer a few questions  
12 and, and ask a few more. But before I do so, I do -- I would like  
13 to take a two-minute recess just to discuss an item with the  
14 parties in interest on a photo I'd like to bring up that we have  
15 not previously provided as an exhibit. So I'm going to take a --  
16 it's 1026. I'm going to take a two-minute recess, and we'll  
17 reconvene in two minutes. Thank you.

18 (Off the record at 10:26 a.m.)

19 (On the record at 10:27 a.m.)

20 CAPT CALLAGHAN: Okay. It's now 1027, and we're back in  
21 session.

22 Thank you, gentlemen. I appreciate your, your patience  
23 there. A bunch of us talked an item over with the parties in  
24 interest.

25 Lieutenant Commander Comerford, would you mind pulling up

1 that photo we just talked about?

2 So, gentlemen, as kind of alluded to earlier, with regards to  
3 studies that have been conducted and, you know, the timeframe that  
4 it's been since such studies have, have been conducted.

5 So just to make the public aware, as, as part of this Marine  
6 Board, we've done a couple of things to try and push those efforts  
7 forward. Number one is we've tried to engage the Coast Guard  
8 Research and Development Center to take on a longer-term study for  
9 ice secretion on crab pots. But in the -- in immediate interest  
10 of the hearing and gaining some elementary data on ice  
11 accumulation, a single pot was put aboard the Coast Guard cutter  
12 *Polar Star* on her last voyage up through the Arctic. And so this  
13 is a picture of the, the pot as it was onboard, empty, with a pot  
14 weight that they estimated was close to 1,000 pounds prior to  
15 conducting the experiment.

16 And so, gentlemen, before I show you the next picture, just  
17 would like to ask, so in your professional -- your professional  
18 experience, how much weight do you think a pot could accumulate  
19 with ice alone?

20 MR. ZANKICH: My rough calculations have said 300 pounds.

21 CAPT CALLAGHAN: Okay.

22 MR. ZANKICH: Bud can give a calculation also.

23 MR. PARROTT: Basically, I would assume that the maximum  
24 weight would be that full pot full of ice. So eight-by-eight-by-  
25 three, ice at 64 pounds per cubic foot, plus the, the pot weight.

1       CAPT CALLAGHAN: Lieutenant Commander Comerford, can you  
2 switch to the next picture?

3       So this is a -- after 72 hours of conducting the experiment  
4 with utilizing a fresh water hose -- so not exactly the same  
5 representation, but again, this was to measure accumulation. So,  
6 gentlemen, just to ask you, you know, what, what do you -- looking  
7 at this picture, what do you see as far as accumulation on the,  
8 the, the top of the pot and then the sides of the pots?

9       MR. PARROTT: Nothing on the sides, but the tops looks to be  
10 about three inches. But it's interesting to see the icicles  
11 hanging inside the pot, so --

12       MR. ZANKICH: And can you imagine if this was alongside  
13 another pot or underneath another pot? Wow. I'm a --

14       MR. PARROTT: Well, the, the thing with a pot stack though is  
15 they'll -- as the pots freeze, there'll be less and less water  
16 reaching the interior of the lower pots. So the, the weight of  
17 the ice is going to accumulate higher quicker. And, and you may  
18 have pots down on the bottom of the tier that have no ice at all  
19 in them.

20       MR. ZANKICH: I don't believe that.

21       MR. PARROTT: Well, that's good, but --

22       MR. ZANKICH: It runs downhill.

23       MR. PARROTT: Yeah, but it -- as it runs downhill, it  
24 freezes, and then it, it provides obstructions, so the water  
25 coming down will freeze earlier and -- you know, it's -- I've seen

1 this happen on, on brush.

2 MR. ZANKICH: Well, what's the punchline? How many pounds  
3 was that?

4 CAPT CALLAGHAN: So, at the end of the experiment,  
5 unfortunately, we were not able to get a total weight, and only  
6 because the pot maxed out our 3,000-pound scale.

7 MR. ZANKICH: So you're saying there's more, more than 2,000  
8 pounds in this pot?

9 CAPT CALLAGHAN: That -- from the -- an initial weight of  
10 1,000 pounds --

11 MR. ZANKICH: Wow.

12 CAPT CALLAGHAN: -- prior -- pre-test to maxing out the,  
13 the -- the scale at, at the end of the test.

14 MR. ZANKICH: That is astounding. But I guess that's real  
15 life. That's what we were asking for was get some data. That'll  
16 tip a boat over really quickly.

17 CDR DENNY: (Indiscernible).

18 CAPT CALLAGHAN: Mr. Bronson, I believe you're on mute, sir.

19 MR. BRONSON: Okay. Now can you, now can you hear me?

20 CAPT CALLAGHAN: Yes, sir.

21 MR. BRONSON: I, I have two or three acquaintances who are  
22 not quite my age, but they've been up there, and we were talking,  
23 and they all said that the lower levels of pots have more ice than  
24 the upper ones because the, the water trickles down and begins to  
25 freeze on the lower pots first and works its way slowly up. I --

1 that's an unskilled seaman's eye of what happened. That's why I  
2 really want somebody to do a study. I want somebody who can, who  
3 can come back to us and tell us what really happens.

4 MR. ZANKICH: This was a good start though.

5 MR. BRONSON: Oh, yes. Yeah.

6 MR. ZANKICH: If you had it stacked up -- a stack of four or  
7 five of them high.

8 CAPT CALLAGHAN: Okay. Thank you, Lieutenant Commander  
9 Comerford.

10 Okay. So I'm going to ask my Coast Guard colleagues here if  
11 they've got any follow-on questions for you gentlemen.

12 LCDR COMERFORD: Thank you, Captain.

13 I'd like to start by going back to Exhibit 040, page 42, the  
14 stability instructions section. Oh, page 45 I think. Thank you,  
15 Lieutenant McPhillips. Can you scroll down to paragraph (e)(1)?  
16 Okay. No, back up please. All right.

17 Gentlemen, (e)(1) talks about the stability instructions,  
18 including the light weight data. First question, generally from  
19 your opinion, is this important? Is this essential information  
20 for the stability instructions?

21 MR. ZANKICH: I don't usually put that on the initial sheet.  
22 I bury it back in the stability calculations of the book. You  
23 could see where the light weight of the vessel is for every  
24 condition, and it should be the same starting point for every  
25 condition.

1 MR. PARROTT: Typically on ABS load line in class, their  
2 instructions will include light weight data. It's not -- it's  
3 important for the naval architect to know what it is. For the  
4 master of the vessel, other than knowing that any change to that  
5 data will be critical to the stability of the vessel, actually  
6 knowing the actual weight in centers is probably not that  
7 critical.

8 LCDR COMERFORD: Okay.

9 MR. ZANKICH: That's why we put it in the booklet area.

10 MR. BRONSON: Well, my only comment is that, if you're going  
11 to do other loading conditions, you have to have the light weight  
12 data. You have to know what the light ship value is and the  
13 center of gravity, because that's part of the calculation, to come  
14 up with the current -- the, the center of gravity right now, which  
15 is what you're going to use to determine whether you've got a  
16 stable or unstable condition.

17 LCDR COMERFORD: Lieutenant McPhillips, can you turn to  
18 Exhibit 36, page 4 first? That's back to the stability  
19 instruction from 2019 for *Scandies Rose*.

20 Generally first, broad question before I go into this, if you  
21 were to do an updated stability instruction, would you find it  
22 best practice or a requirement to follow the required stability  
23 instructions and that Subpart of 28 -- 46 C.F.R. 28?

24 MR. ZANKICH: (Indiscernible) the question.

25 LCDR COMERFORD: So earlier -- let me clarify. Earlier,

1 there was a comment, the vessel's very old; it may not have been  
2 built when the regulations were in place. And then my follow-up  
3 question to that would be, if this was done in 2019, would you,  
4 would you find it prudent or is it a requirement to meet those  
5 requirements in that paragraph of the C.F.R.?

6 MR. PARROTT: I think --

7 MR. ZANKICH: I, Paul Zankich, would have assumed I had it in  
8 there because I had it in there on every condition description.

9 MR. BRONSON: I agree with Mr. Zankich.

10 LCDR COMERFORD: On this page, do you see any characteristics  
11 that would indicate the, the light ship of the vessel?

12 MR. BRONSON: Not on this page, but that's not where I would  
13 expect to see it. I would expect to see it on a worksheet that  
14 lets you do a load calculation.

15 LCDR COMERFORD: All right. Lieutenant McPhillips, can we  
16 just go to the next page?

17 And, again, I'm going to ask the same question. Did, did you  
18 see it in the instructions to the master?

19 MR. PARROTT: No.

20 MR. BRONSON: Nor would I expect to see it there.

21 LCDR COMERFORD: And then --

22 MR. ZANKICH: Nor would I expect to see it there.

23 LCDR COMERFORD: And -- understood. And can we -- Lieutenant  
24 McPhillips, can you progress on to the first condition? Can you  
25 keep, can you keep scrolling down? All right.

1 Can you, can you help me find the -- to the gentlemen of the  
2 panel, can you help me find the light ship information or where I  
3 should -- should I be looking further in the instructions?

4 MR. ZANKICH: This sheet does not have it. I -- I don't have  
5 the entire book in front of me, so I --

6 LCDR COMERFORD: Yeah, understood.

7 And one more, Mr. McPhillips, can we go to the next page?

8 Again, any indication of light ship on this page?

9 MR. PARROTT: None.

10 MR. ZANKICH: Nope.

11 LCDR COMERFORD: All right. Thank you. I, I don't want to  
12 go through every page of the book. I just wanted to get through  
13 some of the main pages. So thank you for that. Last question for  
14 me, can -- Lieutenant McPhillips, can you turn to Exhibit 004,  
15 page -- the first page. And focus on the, the picture of the  
16 vessel.

17 Again, this is a follow-up on some of the comments previously  
18 made. There appear to be some discussion, perhaps academic  
19 discussion on that side rail on the main deck. In the previous  
20 pictures you were shown, you saw a little bit of a higher side  
21 wall on the aft part of the main deck. Curious on your take on  
22 the balance between icing with this updated photo or the frame  
23 port concerns general, general -- generally interested in hearing  
24 what your perspective is on this different photo of the vessel.

25 MR. ZANKICH: I don't see this would be any different icing



1 than the previous photo.

2 MR. BRONSON: Are you saying that you think the bulwark has  
3 been raised?

4 MR. PARROTT: Yeah, the wing wall aft of the pot hauling  
5 station is higher on, on the more recent photos. That's very  
6 typical of the -- from the modifications in recent years to  
7 provide more weather protection for the deck crew.

8 LCDR COMERFORD: Now, to clarify, this is the most recent  
9 photo that we have of the *Scandies Rose*.

10 MR. ZANKICH: This is the most recent?

11 MR. PARROTT: No, the, the one with the pot --

12 MR. ZANKICH: And the previous one was not most recent?

13 LCDR COMERFORD: Correct.

14 MR. ZANKICH: Oh, now it's lower than it was then?

15 LCDR COMERFORD: It is lower than it was.

16 MR. PARROTT: Oh, interesting.

17 MR. ZANKICH: So it didn't go up, it went down?

18 LCDR COMERFORD: Yes.

19 MR. ZANKICH: Well, I mean, it might get a little more spray  
20 on that lower row of pots, but that'd be salt water spray rather  
21 than the rain coming in usually. And so that lower first pot  
22 might get a little more ice, but boats -- mostly, these boats  
23 aren't affected by the spray. It's the rain and the mist from the  
24 spray that's icing them up.

25 LCDR COMERFORD: Commander Denny, did you have any --

1 MR. BRONSON: Well, well, if --

2 LCDR COMERFORD: Those are --

3 MR. BRONSON: Well, if, if, if the latest stability study  
4 done by Mr. Culver is done after this picture was taken, then it  
5 would have calculated -- it would have taken care of the change in  
6 weight due to the lowering of this bulwark over there.

7 MR. PARROTT: That's correct.

8 CDR DENNY: And, gentlemen, this, this is Commander Denny.  
9 I, I have a question that's a follow up to Lieutenant Commander  
10 Comerford's but specifically in what you're talking about. In  
11 your professional opinion, would that have been considered a major  
12 modification or does that not meet that threshold?

13 MR. ZANKICH: Doesn't meet that threshold.

14 (Simultaneous speaking.)

15 MR. BRONSON: That's not critical.

16 CDR DENNY: Okay.

17 MR. ZANKICH: That's a minor, minor housekeeping.

18 LCDR COMERFORD: What, what kind of things would you consider  
19 as a major conversion type of issue on these fishing vessels?

20 MR. ZANKICH: Lengthen, widen, add another deck.

21 MR. BRONSON: Build something underneath the waterline,  
22 adding a (indiscernible), something like that.

23 MR. PARROTT: Yeah, there's also vague reference to a chance  
24 in service. So like pulling a cargo vessel into a fishing  
25 industry would be a major conversion.

1 MR. BRONSON: Yes.

2 LCDR COMERFORD: Thank you very much, gentlemen.

3 Captain Callaghan, those are all the questions for me.

4 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

5 And, gentlemen, now I'm going to pass it to Commander Karen  
6 Denny who's got a few follow-on questions.

7 CDR DENNY: Good morning, gentlemen. Thank you again. I  
8 want to shift the topics. I've been writing notes throughout our  
9 entire conversation. We've covered a lot of ground.

10 So, Mr. Bronson, my first follow up question is for you.  
11 Early on you mentioned that, that you had taught some stability  
12 courses to masters for a time. So a few follow-on questions to  
13 that. Could you refresh my memory of what that timeframe was  
14 please?

15 MR. BRONSON: My best recollection is somewhere around 1990  
16 to 1995 probably, somewhere in that area, maybe a little earlier,  
17 maybe a little later. Certainly before the year 2000 because by  
18 that time I had moved and was chief engineer at Martinac Ship  
19 Building in Tacoma.

20 CDR DENNY: Okay. And, and you said that those were one-week  
21 courses. About how often a year did you put those on?

22 MR. BRONSON: Well, you can probably talk to the folks at  
23 NPFVOA, but I think probably at least three or four times a year.

24 CDR DENNY: And, and about how well attended were those? Did  
25 you have empty seats? Did you have -- roughly, to the best of

1 your recollection?

2 MR. BRONSON: I think there were probably maybe a dozen  
3 people at each one of those courses.

4 CDR DENNY: Okay. Do you happen to know how long that  
5 section -- if that's still being taught and if that training is  
6 still the same length of time that you, that you did them?

7 MR. BRONSON: I have no idea.

8 MR. PARROTT: I do know that NPFVOA is continuing stability  
9 instruction classes. I don't know duration or time. But I do  
10 know that they, they have a naval architect providing that  
11 guidance.

12 CDR DENNY: Okay. Thank you for that clarification. I  
13 appreciate that.

14 Mr. Parrott, you had made some comments about -- it was  
15 around the same section that we were talking about the GHS  
16 software, and you had mentioned that, through the course of  
17 things, you had found some bugs in the system, you relayed that  
18 information to the developers, and that they corrected those and  
19 those came out in the updates. Could you specify or elaborate  
20 what kind of bugs you, you found?

21 MR. PARROTT: I didn't find them. It would have been the  
22 people that were doing the, the calculations. Generally, they  
23 would be bugs that were in specific conditions where the program  
24 might not accurately call out -- it, it -- they have a graphic  
25 output and then data output, and sometimes the two might not

1 correspond. They might say that the, the angle of, of zero  
2 righting arm is at 40 degrees where it was actually at 38 or 42.  
3 So they were just minor corrections to some of, some of the  
4 calculations. And usually, once we verified that and got it back  
5 to GHS, they would send out a hot fix within a couple of days.

6 CDR DENNY: Okay. That is helpful. So -- but if you're not  
7 getting the general updates, does that still get sent out? Does  
8 it still connect with the computers, do you know?

9 MR. PARROTT: I don't know. That's one program we maintain a  
10 current subscription on because we base so much of our work on  
11 that. I, I do know that they just sent out an update earlier this  
12 year. I don't know how much it costs because I don't, I don't  
13 bother to take a look at those bills anymore. But they're,  
14 they're pretty good at updating and keeping, you know, putting  
15 more functions on the program.

16 CDR DENNY: Okay. Thank you for that clarification.

17 Jumping forward to later in the conversation, you guys  
18 mentioned that when we talked about the perceived inadequacies of  
19 the regulations, which I understand the concerns, how does that  
20 interrelate to your responsibilities as PEs? And, and I say you,  
21 but I mean the general PEs and nav arcs that do these  
22 calculations. As PEs, there -- I'm paraphrasing, but there's a  
23 general, like, a code of ethics where, you know, you're not to do  
24 harm to your clients, people, the environment. If, if you have  
25 concerns about the sufficiency of the regulations or the

1 calculations that are in place, what do you, as Pes, or your  
2 colleague in the PE community, do to mitigate that?

3 MR. ZANKICH: Do just what I did. Call Callaghan and tell  
4 him we're interested. We're on board. We want to get this  
5 straight.

6 CDR DENNY: That's fair, Mr. Zankich, but what about prior to  
7 the sinking of the *Scandies Rose* and, you know -- go ahead, sir.

8 MR. ZANKICH: Previous Coast Guard investigations haven't  
9 resulted or discovered things that affected the directions that  
10 the naval architecture was giving to the masters. But since this  
11 and since we had some survivors who could describe what went on,  
12 I'm pretty confident now those regulations are not -- I was  
13 assuming they were reasonably correct and had, had not reported or  
14 been reported to me by any operators that they had seen anything  
15 bogus in what we had told them. But I'm sure they could now.

16 MR. PARROTT: I think one of the, one of the factors in  
17 previous casualties of fishing vessels, it's been pretty apparent  
18 that weight gain or not operating in accordance with the stability  
19 instructions has been, has been the major factor of a casualty. I  
20 think this is one of the first vessel casualties that -- in recent  
21 years where the vessel has -- should have had adequate stability  
22 for the conditions that, that we typically look at.

23 MR. ZANKICH: I urge you to read that 19-, whatever it  
24 was, -77, Dr. Storch's paper about the casualties that he  
25 documented and he assigned various reasons for the casualty.

1 CDR DENNY: Okay. Thank you.

2 Mr. Bronson, do you have any thoughts on that before I move  
3 on to another question?

4 MR. BRONSON: Well, one of the challenges we have as a -- as  
5 professionals is these regulations come out of IMO, the  
6 international organization. How do we decide -- how do I decide  
7 that, in this particular, case I will insist that I impose a more  
8 -- a more restrictive requirement on a vessel than what IMO, which  
9 is supposedly the international organization -- how do I, how do  
10 I, as a professional, override that? We've asked the question  
11 periodically and the answer has been, IMO has done their homework.  
12 Now we have a case in which we got to say, guys, would you please  
13 go back and do your homework again and verify it to us that what  
14 we're telling our clients is, is the right thing?

15 MR. ZANKICH: I (indiscernible) what you're suggesting. I've  
16 tried to tell a customer that I want to put an additional standard  
17 on in relation to like his crab tank and it's free surface. And  
18 some of them didn't even want to pay the bill for the naval  
19 architecture study at that point, because I was recommending 30  
20 pots, and they could go down the street a couple blocks and get a  
21 40-pot assignment on their vessel with that naval architect that  
22 wouldn't impose, impose that additional regulation that was not  
23 written down in the standards. And I lost customers by doing  
24 that. And I was, I was okay with that.

25 CDR DENNY: Thank you. Thank you, gentlemen. I appreciate

1 that.

2 Just a few minutes ago you mentioned, you know, additional  
3 weight gain, Mr. Parrott. Speaking of weight gain, have you, as a  
4 group of Pes, or do you know of organization -- PE organizations  
5 that are working with other sub-entities of the commercial fishing  
6 vessel industry to more accurately find out the weights of pots or  
7 develop standards to self-regulate within the community so that  
8 they can get either more accurate weights and therefore stability  
9 calculations, or are you aware of any initiatives like that?

10 MR. PARROTT: Well, I do know when Marty Kechow (ph.) and his  
11 crew were up at -- in -- up in Dutch Harbor. They instituted a --  
12 the Coast Guard group up there instituted a policy of, of weighing  
13 pots for the crab fleet before they went out. We commonly, when  
14 we do a new stability report for crabbers, we ask that they update  
15 their weights for the crab pots they use. You know, they've,  
16 they've -- the crab pots have gone, you know, 600 pounds to 800  
17 pounds because of heavier material being used, because they're  
18 fishing deeper or they're fishing in higher currents, so they need  
19 to -- need the pots to be heavier to, to stay in place.

20 I don't know if the Coast Guard is, is continuing that policy  
21 of weighing pots before each season on some of the boats -- I was  
22 pretty sure it was a random operation -- and then verifying that  
23 those weights were the weights that were included in the stability  
24 booklets for that particular vessel.

25 CDR DENNY: And you guys -- one PE, and I apologize that I



1 don't recall who, mentioned that, when stability tests are done,  
2 you might even actually ask a vessel operator or the  
3 representative of the vessel to weigh a pot right then and there  
4 so that you have accurate numbers. What you're referring to as  
5 the Coast Guard up in Alaska, they do weigh several pots at random  
6 off a vessel, and they note that, so -- but you brought up an  
7 interesting point about material and gear and how that changes.  
8 When you or your company do a stability report for a vessel, would  
9 that be something that triggers a different condition as -- for  
10 example, if they are fishing for one type of fishery, and that  
11 requires two shots of line and associated gear, and a different  
12 type of fishery, which requires some other type of gear which has  
13 a weight differential, do you run two different conditions? How  
14 does that work?

15 (Simultaneous speaking.)

16 MR. PARROTT: Yeah, we would --

17 MR. BRONSON: If I could just -- go ahead, Jonathan.

18 MR. PARROTT: No, you go ahead, Bud.

19 MR. BRONSON: I'm in the tuna fishing industry more than the  
20 others right now. Vessels that 30 years ago had a 2,000-fathom  
21 net that was 12 strips deep are now running 4,000 fathoms that are  
22 22 strips deep. They're, they're -- the same net is now two to  
23 three times the weight that it was before. You keep encouraging  
24 your clients, please tell me when you do things like this. And  
25 some of them do, and some of them don't. That's the challenge

1 that we have. We -- I know of at least one instance in which a  
2 tuna vessel pulled it masts down because the weights of the net  
3 and all had so -- gone up so much that they, they bent the mast  
4 off. That's part of the education problem that we have.

5 CDR DENNY: Thank you.

6 MR. PARROTT: And GHS is a very easy tool for the naval  
7 architect to be able to plug in different variables and run  
8 hundreds of conditions in an hour and, and check stability on, on  
9 those conditions. It's a wonderful tool for the naval architect.

10 CDR DENNY: Okay. Thank you, guys.

11 So, Lieutenant McPhillips, could you please pull up Exhibit  
12 036, page 1? It's the stability -- the first page of the  
13 stability report. And just scroll down please. Actually -- yep,  
14 scroll down. One more. I have the page number incorrect, but I  
15 was going to the page -- oh, it's, it's -- actually, it's right  
16 there. That's perfect. Thank you. Thank you.

17 So I wanted to bring up this, this slide right here because  
18 one of the things that you mentioned is that when you -- after you  
19 go through the process -- or part of the process of establishing  
20 the, the stability conditions or the, the assumptions that you put  
21 in to the GHS, you indicated that you talked to the vessel master  
22 or the operator because there are very specific things that you  
23 want to know so that you can make it as accurate as possible for  
24 what they do.

25 So would you be concerned if you were not talking to the

1 vessel operator or somebody that has intimate knowledge on, let's  
2 say, how the loading condition is or the, the intimate details of  
3 the pot, the gear used on board? Would that be a concern, and  
4 what would you do as a PE if you were doing that?

5 MR. ZANKICH: I'm confused. What are you implying? What are  
6 you looking for?

7 CDR DENNY: I'm just trying to find out, as an experienced  
8 PE, if you have somebody that's not the operator -- because you  
9 were very specific in saying that you would talk to the vessel  
10 operator. I, I noted it a couple of times. So if you're talking  
11 to like the owner, who doesn't necessarily sail on the vessel, is  
12 that a concern for you as a PE? Do you then say, no, I need to  
13 have an interview with the operator so that I better understand  
14 that? How does that work?

15 MR. PARROTT: I guess it depends on how involved the owner is  
16 in the operation of the boat. If it's an owner who is -- you  
17 know, especially if they've run the boat before, they generally  
18 will brief their skippers on, on how best to operate it and, and  
19 the skippers may change a little bit. But typically we would  
20 prefer to, to interview with the actual skipper. But, then again,  
21 most boats have several skippers that --

22 MR. ZANKICH: Yeah, a couple.

23 MR. PARROTT: -- trade off and on.

24 MR. ZANKICH: A couple, yeah.

25 CDR DENNY: Okay. We can take that down. Thank you. I just

1 wasn't sure and I wanted to get clarification. So thanks for  
2 that.

3 Captain, I have no further questions at this time.

4 CAPT CALLAGHAN: Thank you, Commander Denny.

5 So I just want to go over and check with the colleagues at  
6 the National Transportation Safety Board. Do you have any  
7 follow-on questions, Mr. Barnum?

8 MR. BARNUM: No follow-on questions from us. Thank you very  
9 much, gentlemen.

10 CAPT CALLAGHAN: Thank you, Mr. Barnum.

11 Mr. Stacey?

12 (No audible response.)

13 CAPT CALLAGHAN: No questions from Mr. Stacey.

14 Mr. Barcott, any follow on questions for you, sir?

15 MR. BARCOTT: None, thank you very much, Captain.

16 CAPT CALLAGHAN: No follow-on questions for Mr. Barcott.

17 So, gentlemen, I would have -- I will tell you, I greatly  
18 appreciate this discussion, and I thank you -- you guys have  
19 brought a lot of information not only to the investigation, but to  
20 the -- just to the public in general in starting to understand  
21 some of these challenges, understanding that the, the answer isn't  
22 a simple answer, but it is complex and it's worth taking a look  
23 at.

24 So what I want to do now is ask you three gentlemen, so now  
25 that we've gone through quite a few lines of questioning, I'd like

1 to ask you gentlemen if there's something that you believe that we  
2 didn't cover in our questioning that would bring value to this  
3 Marine Board and its investigation following this casualty.

4 MR. ZANKICH: I have heard -- this is Paul Zankich -- that in  
5 the Navy manual, there are procedures for avoiding icing or  
6 avoiding ice accumulation. Some of them may seem strange or  
7 something about wrapping your railing in saran wrap or something  
8 like that, but I haven't read that. And that might be one of the  
9 documents that Bud or that organization would include in their  
10 stability instructions to people and such.

11 If there are certain things -- can you, can you spray a coat  
12 of super slip on something and therefore it won't accumulate ice?  
13 We have modern technologies now that make vessels slip through the  
14 water real easily. Can those be applied to superstructures or  
15 rigging or even pots? Without damaging the environment, you know.  
16 There possibly are technological advances that we're missing that  
17 could keep these boats from icing up. Can you, with a garden  
18 sprayer, spray super de-icer on and not have to beat it with  
19 baseball bats to get rid of it or -- I don't know.

20 CAPT CALLAGHAN: Lieutenant McPhillips, can you pull up  
21 Exhibit 70?

22 Sir, just for the record, is this the manual you're referring  
23 to, sir?

24 MR. ZANKICH: I believe --

25 MR. BRONSON: That's the one that I've seen, yes.

1 MR. ZANKICH: -- yeah.

2 CAPT CALLAGHAN: Okay. Thank you, sir.

3 Lieutenant McPhillips, you can take that down.

4 Sorry to interrupt you, sir. I just wanted to confirm that  
5 for the record. Either of the other two gentlemen?

6 MR. PARROTT: I have not seen that.

7 MR. BRONSON: I've, I've seen that, and I, I seem to recall a  
8 couple of other documents, but I -- if I find them, I'll send them  
9 to you.

10 CAPT CALLAGHAN: I guess I'll ask the, the rest of you  
11 gentlemen, anything else that we haven't considered here today  
12 that, that you would like to add?

13 MR. PARROTT: Not from me.

14 MR. ZANKICH: I want to commend the fact that you're doing  
15 this investigation because the -- I understand you opened this  
16 thing with a mayday call. You know, I'd hate to get a mayday call  
17 where the guy says, I'm rolling over. I'd like to avoid those.

18 CAPT CALLAGHAN: Yes, sir.

19 MR. BRONSON: Let, let, let me make one, one comment. I'm --  
20 I, I don't want to make a huge thing of it, but I'm one of the few  
21 around that has held a master's license and has fished and all  
22 like that. And those are my friends out there. I'd like to do  
23 the best job I can for them. I've got a hole in, in my education,  
24 in my knowledge, and that is, how do these pots really ice? From  
25 talking to them, what they tell me the pots look like doesn't

1 match what the regulations are requiring. Can we please do some  
2 research and find out what the truth is so we don't have to repeat  
3 this subject any more than is absolutely necessary?

4 MR. ZANKICH: Thanks, Bud, for getting involved.

5 Thanks, Jonathan, for getting involved.

6 MR. BRONSON: Before we, before we end this discussion, it  
7 might be interesting for those that don't know the history of it  
8 all that the states of Washington, Oregon, and Alaska were the  
9 only -- only states before about 1960 that required naval  
10 architects to be licensed as PEs. And the three of us are in the  
11 early group of that. Now it's a national organization, and I  
12 think we're doing a good job of it, but that's why, why the three  
13 of us are, are here.

14 MR. PARROTT: I wonder which one of you graded my PE test.

15 MR. BRONSON: Who, yours?

16 MR. PARROTT: Yeah.

17 MR. BRONSON: No, no, I wasn't -- I wasn't rating the tests  
18 at that point.

19 MR. ZANKICH: I, I was grading the tests, but we passed it  
20 around. Every question got graded by three PEs.

21 CAPT CALLAGHAN: Well, gentlemen --

22 MR. ZANKICH: And so they were anonymous.

23 CAPT CALLAGHAN: -- I couldn't have -- I couldn't ask for any  
24 more from you guys today, and I, I -- on behalf of the Coast Guard  
25 and the Marine Board of Investigation, I do want to thank you for

1 your time today, for your participation up to this point, and with  
2 hopes that we can continue to work together and, as you said, to  
3 avoid being in this place again at any time in the future with the  
4 goal to prevent such casualties moving forward. So, gentlemen, I  
5 thank you and I, again, look forward to continuing communication  
6 with you gentlemen moving forward.

7 MR. PARROTT: Any time. Any time.

8 MR. ZANKICH: Yeah, any time.

9 CAPT CALLAGHAN: As we close, I want to thank you for your  
10 patience as well. I know we took you well beyond your scheduled  
11 timeframe, but certainly the testimony we heard from you gentlemen  
12 today was worth every bit of that time, and we thank you for that.  
13 So, at this point, the three of you gentlemen are now released as  
14 witnesses from this formal hearing. We thank you for your  
15 testimony and cooperation.

16 If, at a later time, I determine that this Board needs  
17 additional information from you, we will contact you directly. If  
18 you have any questions about the investigation, you may contact us  
19 through the investigation recorder, Lieutenant Ian McPhillips.  
20 Gentlemen, thank you very much.

21 (Witnesses excused.)

22 MR. ZANKICH: I think I speak, I think I speak for all three  
23 of us that if you guys have questions, call us. We're here.

24 CAPT CALLAGHAN: Thank you, sir.

25 At this time, before we go to recess, I'd like to just make



1 sure we put Exhibit 123, which was the additional photo that we  
2 brought up, into the record.

3 It's now 1112 Pacific Standard Time. This hearing will now  
4 go into recess and is scheduled to resume at 1300.

5 (Off the record at 11:12 a.m.)

6 (On the record at 12:59 p.m.)

7 CAPT CALLAGHAN: The time is now 1300, and this hearing is  
8 now back in session. At this time, we will hear testimony from  
9 Ms. Cecily Lowenstein.

10 Ms. Lowenstein, Lieutenant McPhillips will now administer  
11 your oath and ask you some preliminary questions.

12 (Whereupon,

13 CECILY LOWENSTEIN

14 was called as a witness and, after being first duly sworn, was  
15 examined and testified as follows:)

16 LT McPHILLIPS: Please be seated, ma'am. Please state your  
17 full name and spell your last name.

18 THE WITNESS: My name is Cecily Lowenstein. My last name is  
19 L-o-w-e-n-s-t-e-i-n.

20 LT McPHILLIPS: Please identify counsel or representative if  
21 present?

22 THE WITNESS: Counsel is Lieutenant Commander Pekoske.

23 Did I get that right?

24 LCDR PEKOSKE: Yes.

25 LT McPHILLIPS: Please have them state and spell their last

1 name, as well as their company relationship.

2 LCDR PEKOSKE: Good afternoon. I'm the witness counsel. My  
3 name is Matthew Pecoske, last name P-e-k-o-s-k-e. I'm a U.S.  
4 Coast Guard Judge Advocate Agency Counsel for all Coast Guard  
5 witnesses.

6 LT McPHILLIPS: Thank you, sir.

7 Ms. Lowenstein, please tell us, what is your current  
8 employment and position?

9 THE WITNESS: I am currently the deputy program manager in  
10 CG9 for CG9 335. It's the C4 ISR acquisition program.

11 LT McPHILLIPS: What are your general responsibilities in  
12 that job?

13 THE WITNESS: I act as the XO for program management for  
14 three non-major programs inside the acquisition directorate.

15 LT McPHILLIPS: Thank you. Can you briefly tell us your  
16 relevant work history?

17 THE WITNESS: I have been -- in my early years I worked as a  
18 naval architect starting in 1997 in the off-shore oil industry. I  
19 moved to D.C. and worked for various subcontractors, including  
20 supporting the deep water project for the Coast Guard. I worked  
21 for multiple naval architecture firms doing a variety of naval  
22 architecture. In 2010, I joined the U.S. Coast Guard Marine  
23 Safety Center as a staff naval architect where I was employed  
24 through 2016. Then I transitioned to the technical manager for  
25 the Polar Security Cutter Program acquisition here at Coast Guard,

1 and I then went to Eisenhower School right there, and I've been in  
2 my current position about six months.

3 LT McPHILLIPS: What is your education related to your  
4 position?

5 THE WITNESS: I have an undergraduate degree in mechanical  
6 engineering, a master's degree in naval architecture and off-shore  
7 engineering, an MBA, and I also have my Masters of Science in  
8 Global Policy and Resource Strategy from the Eisenhower School.

9 LT McPHILLIPS: Do you hold any professional licenses or  
10 certificates relating to your position?

11 THE WITNESS: Yes, I owe -- I have a Professional Engineering  
12 License in Naval Architecture and Off-Shore Engineering since  
13 2003.

14 LT McPHILLIPS: Thank you, ma'am. Captain Callaghan will now  
15 have some follow-up questions for you.

16 CAPT CALLAGHAN: Thank you for being here with us today,  
17 Ms. Lowenstein. I'm going to turn it over for the -- to  
18 Lieutenant Commander Comerford to ask the primary Coast Guard  
19 questions.

20 Mr. Comerford?

21 LCDR COMERFORD: Thank you, Captain.

22 EXAMINATION OF CECILY LOWENSTEIN

23 BY LCDR COMERFORD:

24 Q. Good afternoon, Ms. Lowenstein. All my questions are related  
25 to the work of the United States Coast Guard in the realm of the

1 safety of commercial fishing vessel operations.

2 A. Okay.

3 Q. Thank you for being, thank you for being on the line with us  
4 and attending this hearing virtually today. If at any point we  
5 ask a question that you do not understand or cannot hear because  
6 of technical difficulties, please do not hesitate to state -- say  
7 so and we will repeat or rephrase the question. We will take  
8 breaks throughout the hearing as necessary, but if you need a  
9 break at any point, please let us know.

10 Using the Zoom platform, we have the ability to share  
11 exhibits virtually. The recorder, Lieutenant McPhillips, will put  
12 any necessary exhibits up on your virtual desktop. If at any  
13 point you need to point something out on an exhibit, Lieutenant  
14 McPhillips will highlight the area for -- for the benefit of the  
15 Board and the livestream audience. When we look at these  
16 exhibits, please take your time to refresh your memory or acquaint  
17 yourself with the information as necessary. We have provided the  
18 recorder, Lieutenant McPhillips, with, with any -- Lieutenant  
19 McPhillips will put up any exhibit on the monitor at any time.

20 So to begin, just some general background questions today.  
21 Have you ever worked -- Ms. Lowenstein, could you please describe  
22 your position and duties while working at the Coast Guard Marine  
23 Safety Center?

24 A. I was a staff engineer in what they called an HQ or major  
25 vessel branch. I began working here in May of 2010, and one of

1 the, I guess, collateral duties you could say that I picked up was  
2 in late 2010, we started getting asked for assistance from Sector  
3 Puget Sound conducting stability analysis for commercial fishing  
4 vessels that were members of their ACSA Program.

5 As a direct result of the -- I believe it was the *Alaska*  
6 *Ranger* Marine MBI, there was a recommendation that came out of  
7 that, that the Marine Safety Center start looking at the stability  
8 at the request of the OCMI to make sure that the stability for  
9 those commercial fishing vessels, the big processors, were -- met  
10 the applicable requirements at that time. And then, throughout  
11 the rest of my time at the Marine Safety Center, I worked cruise  
12 ships, container vessels, passenger ferries, but the majority of  
13 my work really was largely commercial fishing vessels.

14 Q. And just for clarification, did -- were you doing commercial  
15 fishing vessel work throughout your tenure from 2010 to 2016 at  
16 the Marine Safety Center?

17 A. Yes, sir.

18 Q. Now, going back a little bit further, could you discuss your  
19 -- what you had to do to initially certify for your professional  
20 engineer certification?

21 A. So I had to take an engineer in training exam when I was  
22 still in college, and then after six or ten years of work  
23 experience for, I guess, accredited -- it's not really accredited,  
24 but naval architecture firms that qualify as giving me real naval  
25 architecture experience, you apply and then sit for the exam. So

1 I graduated from Berkeley in '97, so my four year degree from an  
2 accredited Clarkson (ph.), along with my -- I took it in 2003, to  
3 then follow on six years of experience enabled me to sit for that  
4 test. And pass, obviously.

5 Q. Now, with particular focus on the naval architecture, what  
6 are the requirements for maintaining your professional engineer's  
7 license?

8 A Here in the State of Virginia, we're required to do  
9 continuing education classes. The license is renewed every two  
10 years, so you have to continue to demonstrate that you have and  
11 use your technical expertise, taking additional classes, attending  
12 (indiscernible) conferences, things like that.

13 Q. Would you mind going a little bit more in depth on that for  
14 the state that you're licensed? How does that work? What do you  
15 have -- what are the requirements? Is there a certain number of  
16 hours --

17 A. Oh, so --

18 Q. -- a year?

19 A. I believe it's 80 hours a year, or maybe it's 80 hours per  
20 the two years. I would have to look it up exactly. But there's a  
21 requirement that you self-certify that you have done or  
22 participated in, you know, workload or some sort of professional  
23 enhancement to your knowledge.

24 Q. Okay. And further to that end, are there any requirements to  
25 stay up to date with software technology, current resources

1 available, or is it broad?

2 A. Not that I'm aware of. For the most part, doing naval  
3 architecture, you have to stay up to date just in order to be most  
4 efficient with your work, but I don't believe there's any  
5 requirement in my state, or at least where I'm licensed, to keep  
6 up to speed on current -- like (indiscernible) software or  
7 (indiscernible) development software per se.

8 Q. In 2010, approximately 2010 I think, you returned a submittal  
9 from Mr. Brian Culver for the fishing vessel *Sea Venture* and --

10 A. Mr. Bruce Culver, yes.

11 Q. Correct, Mr. Bruce Culver. I misspoke, thank you. Mr. Bruce  
12 Culver. The original return letter was provided to you as Exhibit  
13 066. Lieutenant McPhillips, can you bring up Exhibit 066 please?  
14 And, while we're bringing this up, Ms. Lowenstein, this letter  
15 that was issued is labeled as returned for revision in the opening  
16 paragraph, but there's six, six comments that apply to this  
17 letter. The first question is, did you draft this letter?

18 A. I did.

19 Q. Okay. I would like to take the opportunity to just walk  
20 through each one of the six comments and just in your own terms,  
21 can you explain, from your memory, what you had noted, and if not  
22 that, if you could give us perspective of if -- why this matters  
23 in terms of the safety of a fishing vessel?

24 A. Sure. So reference (a) contains two drawings. Both of these  
25 drawings show two seawater ballast tanks, port and starboard,

1 between frames F and J. However, reference (a) does not address  
2 the, the seawater ballast tanks. Further, on correspondence from  
3 Office in Charge of Marine Inspection, it appears that these tanks  
4 have not been completely disconnected.

5 Please -- so the first one is a note that, in order to ensure  
6 that we understand the stability of a vessel, we need to make sure  
7 we have a full understanding of all of the tanks, whether they're  
8 in use, so that you can have a free surface for changing tank  
9 levels for the different weather conditions and also -- just also  
10 general arrangement of the tanks so that when you're doing the  
11 stability, you were creating a GAS or hull model that you can make  
12 sure that model is truly representative of the vessel that you're  
13 trying to do stability on.

14 So I was concerned that there was some tanks shown, and there  
15 was some discrepancies between two drawings, and it appeared that  
16 they may have been disconnected, but it wasn't necessarily clear  
17 in the, in the -- from the drawings I was provided to try to  
18 create a model or validate a model that was provided to me,  
19 exactly what the situations were that those tank layouts were.

20 The next one down is that the individual, Mr. Culver, was  
21 utilizing two separate steps of stability criteria, and typically,  
22 you only use one set of stability criteria. For example, you  
23 wouldn't mix something from Subchapter S -- 46 C.F.R. Subchapter S  
24 with stability under 46 C.F.R. 28 or Subpart C for the uninspected  
25 fishing vessels.



1       Item three, so this was actually one of my, my bigger  
2 concerns with this particular vessel is there was a whole list of  
3 openings indicated that were provided as a part of the stability  
4 booklet, and it wasn't clear to me which ones were actually being  
5 able to be secured weathertight or watertight, which would enable  
6 them to or to not have to be used as a downflooding point. And  
7 with these commercial fishing vessels, there's usual very low free  
8 board, and so being able to understand if something is going to be  
9 a downflooding point and when it's going to downflood is kind of a  
10 critical stability aspect.

11 Q.   So for clarification on this one, you say please provide a  
12 list of downflooding points. Is this something normally expected  
13 in the stability packet or was it information that you would want  
14 as supporting information from the submitter?

15 A.   So it's important that it be included as a part of the  
16 stability booklet. That was specifically for the ACSA vessels  
17 requirements that they have this list of downflooding points and  
18 what type of closures were on them and whether these closures were  
19 open or closed as a part of fishing operations, because there had  
20 been such concern with potential downflooding points for things  
21 that may have been accidentally left open that would normally be  
22 opened while fishing, to ensure that they're closed during transit  
23 or during heavy weather.

24       So this, this would be a requirement for load line to have  
25 this information available and it, it was a requirement for these

1 ACSA vessels. And typically, to understand when you're running up  
2 against the stability criteria, this information would be provided  
3 as a part of stability calculations. Not necessarily as a part of  
4 stability instructions, although it is usually identified so that  
5 the master knows what, what point it is you're talking about being  
6 submerged when -- that the calculations are based on.

7 Q. And just kind of coming full circle here, the correspondence  
8 from the Office in Charge of Marine Inspections, was that the  
9 indications to you that there may be other downflooding points not  
10 contained in the information provided?

11 A. Yes. Yes, they identified -- so they were, they were my eyes  
12 on the ground. Like, normally, if I was doing -- or if I was  
13 working for a non-government agency, being a naval architect, I  
14 would be inspecting the boat, talking to the operator to  
15 understand how the vessel's used, what hatches are open when,  
16 et cetera, where the downflooding points are. But the, the Office  
17 in Charge of Marine Inspection was my eyes on the ground, able to  
18 validate and verify the information -- or limited information that  
19 I was seeing that was submitted to me.

20 Q. Lieutenant McPhillips, if we can move to the next page and  
21 continue on? We'll try and zoom in a little bit here for you.

22 A. Sure, that's fine. We're talking about hull models. Due to  
23 what appears to be two different hull models being used in this  
24 analysis, we note that there are inconstancies between the volumes  
25 and center of gravities of tanks, the holds and the loads in

1 between cod fishing and crab loading conditions.

2 Basically, depending on which load case I was looking at,  
3 there were discrepancies and inconsistencies in the information  
4 that I would expect to be similar across -- what do I want to call  
5 it -- the various loading conditions of the vessels. So I  
6 basically requested that a single hull file be used, and then the  
7 next one is for him to -- again, I was looking at a paper copy of  
8 the stability calculations, and I didn't have a lines plan, I  
9 didn't have a hull model myself to be able to really understand  
10 what was going on, and so I wanted to understand why there were  
11 differences in tank volumes between two loading conditions that  
12 supposedly were for the same vessel.

13 And then the next item is me asking for a copy of the lines  
14 plan. So typically, at the Marine Safety Center, we would do an  
15 independent hull file or use a lines plan that validates the hull  
16 file that would be provided by a submitter.

17 Q. Was there --

18 A. And then the last --

19 Q. -- when you did receive one, and just to kind of -- on that  
20 one, when the hull file was received by the Marine Safety Center,  
21 were there any steps taken to -- when you were there during your  
22 time --

23 A. Validate it?

24 Q. -- validate that information?

25 A. I -- I actually ended up developing, I think, three to five

1 of my own hull files just because I couldn't reconcile the  
2 information that was on the lines plan relative to the information  
3 that had been in the stability booklet that I was looking at. So  
4 I ended up developing multiple hull files myself to try to figure  
5 out what the actual representation I believe is an independent  
6 (indiscernible) would be most representative of the vessel. And  
7 that's what I ended up using long term in my stability  
8 calculations.

9 Q. Oh, I'm just a little curious here. Ms. Lowenstein, when you  
10 make a hull file, do you remember about how much time it would  
11 take for one of these fishing vessels to develop --

12 A. Well --

13 Q. -- a model?

14 A. -- again, it depends on whether you're working from an old  
15 lines plan where you actually have to collect the data off of the  
16 curve or if you're provided with an offset table. I don't think  
17 this vessel had an offset table. I think it took me a little bit  
18 of time, and part of the issue is that you are trying to read  
19 points of hull geometry off of a, you know, a drawing. So it  
20 tends to be something you need to check and verify, and as you  
21 create the frames of the vessel, make sure it's smooth and that  
22 the -- it's -- the hull model that you're working with, really  
23 does represent what's, what's being shown to you on the lines  
24 plan.

25 Q. Okay. All right. Thank you. You can continue on to six

1 please.

2 A. And so the whole reason why the OCMI initially called me  
3 about this vessel, the *Sea Venture*, is they were asking permission  
4 to put a -- I think -- I believe it was a 20-ton bait box up  
5 behind the pilot house. And understanding that the, the stability  
6 of these vessels is, is often -- can be precarious depending on  
7 the loading condition you're in and the kind of fishing they're  
8 doing.

9 And so OCMI had asked us to look at the stability because  
10 they were interested in putting 20 tons up high in the vessel,  
11 which has negative impacts on stability, and wanted us to verify  
12 the vessel could handle the addition of those 21 tons on the  
13 vessel. And I was unable to verify that because I couldn't even  
14 validate for myself based on the information I had available at  
15 this time that the vessel stability was indeed okay.

16 I had limited information -- not sufficient information to be  
17 able to do that. And this was me expressing my concern that I had  
18 thought it was a bad idea at this point to even consider putting  
19 the bait box up up high because I couldn't validate the stability  
20 or give the OCMI assurances that the stability of the vessel was  
21 adequate.

22 Q. All right. So for clarification purposes, Ms. Lowenstein,  
23 that means that you're just requiring further information? It's  
24 not that it is an issue, it's that you don't have the ability to  
25 evaluate that information?

1 A. Yes, I didn't have -- the information that was presented to  
2 me had -- I had enough questions about it that I didn't have a  
3 high level of confidence in the information I was reviewing, and  
4 also I had insufficient information to do what I always did as a  
5 Marine Safety Center staff engineer which was to independently  
6 validate the results that I was looking at. So I didn't have the  
7 information to be able to do that based on what was provided to  
8 me.

9 Q. So following these letter -- this letter and your further  
10 communication with Mr. Bruce Culver, could you describe, in your  
11 own terms, from your personal experiences, the types of  
12 interactions you had with Mr. Culver and that, that --

13 A. So --

14 Q. -- your impressions?

15 A. -- Mr. Culver, when I would ask a question, it would often  
16 take follow-up questions, and as he produced further information  
17 for me, it was often times creating more questions for me than it  
18 was answering due to inconsistencies between, say, a downflooding  
19 point I would ask a question about, and then I would contact the  
20 OCMI to have them validate the information that was being sent by  
21 Mr. Culver, and I would get conflicting information between what  
22 the OCMI was believing was a downflooding point versus what  
23 Mr. Culver was indicating may or may not have been a downflooding  
24 point, or a hatch open during fishing, et cetera.

25 And so it was this constant uncertainty on my part as to what

1 really was the condition of the vessel, what really were the  
2 downflooding points, how was the vessel actually being operated  
3 for the various fishing operations, because they were doing long  
4 lining and crab fishing for the *Sea Venture*. And the different  
5 arrangements of -- for example, they had a COMX (ph.) box that  
6 they would leave on the deck when they were doing long lining, and  
7 I, I just didn't have a complete confidence in the picture of the  
8 information that I was receiving, and it took a lot of back and  
9 forth to really try to, try to hone in and be specific enough to  
10 get the details I needed to actually be able to do my independent  
11 stability verification.

12 Q. There was a bit of information thrown in there about the  
13 practices of the vessel, if you will, if I paraphrase. Were --

14 A. Yeah, so it's --

15 Q. Were you getting --

16 A. We want to make sure the stability instructions reflect how  
17 the owner's actually going to operate the boat. It gets to become  
18 really important when there's certain hatches open during fishing,  
19 the way that they put the pots in the water, the way they load or  
20 unload the deck can impact the trim and heel of the vessel, the  
21 way they load the cargo holds, whether it's a fluid filled cargo  
22 hold or not fluid filled, you know, whether they're freezing and  
23 boxing it. So all these things have an impact on the stability,  
24 and being able to understand how the vessel was used and how  
25 weight is distributed as they burn fuel and put pots in the water

1 or burn fuel and are long lining all come into play when you're  
2 evaluating the stability of the vessel.

3 Q. And to -- if you put yourself back in that timeframe, were  
4 you receiving this information from one person or a group of  
5 people to develop, in your mind, what conditions you should be  
6 considering?

7 A. So you mean the loading conditions that I should be  
8 considering for this vessel? I was getting a little bit of it  
9 from Mr. Culver, some of it from the OCMI, and the OCMI was  
10 talking to the vessel owner or one -- and the -- it wasn't the  
11 OCMI, it was the lead commercial fishing vessel examiner, the  
12 OCMI's representative, to ask the specific questions and what --  
13 and so the fishing vessel person, inspector on the ground in  
14 Seattle would go and talk to the vessel owner to try to get the  
15 information that I needed to kind of help me learn and understand  
16 how they were using the vessel, the different ways they were  
17 fishing with the vessel, and then basically how the different  
18 doors or chutes or hatches were being opened or closed during  
19 those fishing operations and to validate whether they could be  
20 closed weathertight or watertight to not be considered  
21 downflooding, et cetera.

22 Q. To your recollection, do you recall if Mr. Culver was  
23 submitting his, his plan, his plans and his calculations under his  
24 professional engineer certification?

25 A. I believe to submit it, it would be -- a 1092 or is it 1082?



1 Which if he were to submit it through the Marine Safety Center, it  
2 basically entitles you to an expedited review, and I do not  
3 believe that he submitted them under his PE, but his stability  
4 booklets were stamped with his PE. So he didn't receive that  
5 expedited courtesy at the Marine Safety Center, but he did stamp  
6 his stability booklets with his PE stamp and his signature.

7 Q. All right. So when you received his plans and saw the PE  
8 stamp, it did not necessarily flag an immediate review under 1092?  
9 It would -- he would have had to indicate that in his request?

10 A. Yeah, and since the request for the review of the stability  
11 came through the OCMI and he was submitting it at the OCMI's  
12 request as a member of the ACSA Program, I'm not sure that the  
13 Marine Safety Center would have recognized the 1092 submission  
14 because we really -- under the normal C.F.R. statutes, Marine  
15 Safety Center doesn't have an official role in reviewing those  
16 commercial fishing vessel stabilities. It's only on behalf of the  
17 OCMI that we did that.

18 Q. Could you maybe describe that a little bit better to me in  
19 the terms of when -- during your time there, when was the Marine  
20 Safety Center actually conducting reviews for certain fishing  
21 vessels?

22 A. It started, to the best of my knowledge, in the fall of 2010,  
23 and I believe they are still doing it. Again, I left there in the  
24 summer of 2016. And we were asked by the Sector Puget Sound to  
25 review the stability of all of the fishing vessels enrolled in the

1 ACSA Program. I believe there were 50-plus of those at the time.  
2 And that included conducting oversight of the commercial fishing  
3 vessels that ABS was issuing long lines for and the associated  
4 stability instructions that they were approving on behalf of the  
5 Coast Guard as an authorized classification society. So it was  
6 basically continuous for those six years, and I know that those,  
7 those stability reviews are still going on, to the best of my  
8 knowledge.

9 Q. When you left there, some of the 52 vessels were still in  
10 pending status, is that what you're saying?

11 A. Oh, yeah. There were -- I mean, the *Sea Venture*, from the  
12 day I got the stability booklet until we finally got it all  
13 squared away, was about a three and a half year process. And that  
14 was largely due to the way the fishing vessel was being utilized  
15 and some discrepancies in structures and deck strength and other  
16 things that had to be corrected.

17 Q. Did you -- was this the one time you had interactions with  
18 Mr. Bruce Culver for purview or did you have interactions for  
19 other vessels with him?

20 A. He -- this is the only time I've interacted with Mr. Culver  
21 and it was only for a period from December of 2010 -- oh, is that  
22 right? Yeah, December 2010 through the summer of 2011 because I  
23 received -- I had received an updated stability booklet from  
24 Mr. Culver, and I had also received a stability booklet from  
25 another engineering firm for -- both for the *Sea Venture*. And I

1 wrote an email to the owner, Dan -- I'm sorry, I don't remember  
2 his last name -- asking which, which stability booklet he wanted  
3 me to review. And he said he had retained the services of a new  
4 engineering firm to conduct the stability for the *Sea Venture*  
5 moving forward. And then, from that date on, I worked with the  
6 other engineering firm that was hired to complete the *Sea Venture*  
7 stability.

8 Q. Do you -- did you have further communication after that point  
9 with Mr. Culver?

10 A. No.

11 Q. Or did you just ask --

12 A. I did not.

13 Q. So you -- did you just ask the owner to clarify the --

14 A. Yeah.

15 Q. -- with Mr. --

16 A. I asked him to clarify and then I sent a note to Mr. Culver  
17 saying I wasn't going to be reviewing that stability booklet any  
18 further because I had talked to the owner of the vessel and he had  
19 indicated that I should be utilizing the submission of the new  
20 engineering firm as the *Sea Venture's* stability booklet to be  
21 reviewed by us to satisfy the vessel's ACSA requirements for Puget  
22 Sound.

23 Q. Thank you. So now I'd like to shift gears a little bit.

24 Mr. McPhillips, can you please bring up Exhibit 49? And when it  
25 comes up, Ms. Lowenstein, this is just a planned review guide for

1 commercial fishing vessel stability from the Marine Safety Center.

2 A. Yes, I drafted this. I wrote it actually, so yes, I'm very  
3 familiar.

4 Q. Can you describe to me the process you followed to produce  
5 this guide?

6 A. Okay. So this -- within the Marine Safety Center we had, had  
7 very little requirement to review these commercial fishing vessels  
8 because they are uninspected, and the Marine Safety Center is only  
9 required to review inspected vessels. So when we started, as a  
10 result of the whole request by the OCMI to start looking at these  
11 commercial fishing vessels, the only other way we would have had  
12 authority to do it was some of these larger vessels are required  
13 to be load lined, so it would have been through a load line  
14 certificate, which we had designated ABS or other authorized  
15 classification societies to be able to do on our behalf. So  
16 through oversight of that would have been the only other way we as  
17 the Marine Safety Center started looking at fishing vessels.

18 And as I started digging into trying to identify what is the  
19 correct stability criteria, what should I be looking at for a  
20 fishing vessel, it was a very, very interesting and complex thing  
21 to try to do. And so as we started reviewing more fishing vessels  
22 and learning what we needed to know and kind of best practices  
23 and, you know, in some cases the engineering firms would do  
24 something a certain way based on the way they had interpreted one  
25 of these requirements, and so doing this work, we decided that

1 there were some ways we wanted to basically add another layer of  
2 conservatism because of, in my personal opinion, some of the -- I  
3 guess the way these vessels are operated increases their risk for  
4 having a stability challenge over time.

5       So to really make sure that we explain to them when we came  
6 to a point that we wanted them to do something more specifically,  
7 and an example I can give is most vessels do not track their TCG  
8 as a part of light ship or as a part of any of their stability  
9 calculations. The vessel is assumed to be, you know, even, evenly  
10 loaded and not in any sort of state of heel. So we found a large  
11 number of these fishing vessels had a -- more than 0.5 degrees of  
12 heel in their light ship condition, and people were using slack  
13 tanks to try to correct that light ship while they were fishing  
14 and slack fuel tanks. Well, it's okay to do that with ballasts.

15       So, again, there's just all these things that we're finding  
16 out that were being practices and accepted by the naval  
17 architecture firms that we recognized we would not accept for an  
18 inspected vessel. So we passed on that information and their --  
19 the inability to review that to the engineering firms as we got  
20 smarter as a group, right. You know, there was challenges with  
21 just about every fishing vessel that came across my desk. There  
22 was never a yes, it's approved right away. It was always a  
23 process. And a lot of times, it was even to the basis of the  
24 stability tests.

25       Some of these big fish processors, they have huge amount of

1 stuff that they store onboard. And for some of the early  
2 stability tests, there was huge amounts of unknown weights being  
3 kept onboard the vessels during these stability tests, and trying  
4 to get them to even remove all that stuff to truly get a sense of  
5 light ship and then weigh the equipment and the nets so we really  
6 understood what they were and how they were stored was, again, one  
7 of the challenges we had early on. And really understanding what  
8 the light ship of the vessel is is essential to understand the  
9 overall stability of the boat and really understand the weights of  
10 the equipment and things that they're moving around and the  
11 shifting of (indiscernible) and things on deck and all those kind  
12 of stuff all play into the stability of fishing vessels.

13 And at the time that this was put out in 2013, it was the  
14 status of the accumulation of the knowledge I had put together and  
15 kind of clarifications we'd provided the industry on where we  
16 thought it was a good idea to try to provide clarity and more  
17 conservatism to their calculations. But, again, this is guidance.  
18 It's not law. This was just our interpretation of the guidance  
19 that was out there to try to help the engineers that are doing  
20 these stability calculations to really understand what we were  
21 looking for to try to put a layer of conservatism and clarity into  
22 the calculations.

23 Q. Just maybe -- I'm going to come back to one term you used  
24 earlier.

25 A. Sure.

1 Q. The TCG. So forgive me, could you for the -- audience, the  
2 best of the audience --

3 A. So when you --

4 Q. -- kind of explain?

5 A. When you have a vessel, you have the vertical center of  
6 gravity, which people will talk about GM or KG curves, and if the  
7 vessel's KG is, is too high, that's what can cause the vessel to  
8 heel or capsize or tip over if there's an instability. The  
9 longitudinal center of gravity is the vessel's trim from stem to  
10 stern, how much of it is in the water. And the TCG would be the  
11 center of the vessel if you go from stem to stern. The TCG is  
12 where on that center line -- usually you would assume the weights  
13 of the vessel are on the center line of the water plane and then  
14 the hull structure, but for some of these boats, the TCG was  
15 actually off center in the natural light ship state vessel. So  
16 the vessel is sitting in the water at sometimes as much as seven  
17 to 15 degrees of heel in its light ship condition.

18 So before you put anything else on it, the vessel was not  
19 upright in its natural light ship condition; it was heeled over,  
20 which means that when you're doing stability, if you do stability  
21 to the side that it's heeled on, you're going to hit downflooding  
22 points sooner, you're going to have less riding energy. Where if  
23 you do that stability to the other side, you're actually falsely  
24 representing that you have that much more angle of heel to meet  
25 stability criteria.

1       You -- so typically, if you have a passenger vessel, you  
2 would assume that, that it's straight up when you're doing the  
3 stability calculations, and you don't care whether you heel the  
4 vessel to the port or the starboard. Well, we found early on that  
5 a lot of these fishing vessels had a natural list that was being  
6 corrected by fuel tanks, which is not allowed. And so, if you  
7 took away that fuel correction, the vessels would actually be  
8 heeling to one side. And so they would be getting credit for a  
9 range of stability that they didn't actually have on either the  
10 port or starboard side of the vessel depending on which way the  
11 vessel was heeling based on this -- I guess they'd call it a list  
12 based on the light ship of the vessel.

13 Q.   Okay. And to clarify something, prior to this plan review  
14 guide, was there any other formal guidance in place for fishing  
15 vessel review?

16 A.   No, but you can see that there was -- there's, there's the  
17 other plan review guides for the trim and stability booklet, the  
18 MSC plan review guide H2-02 for stability tests, submission of  
19 stability test results, and then there's also other ones that were  
20 for trim and stability booklets and stability instructions which  
21 apply to inspected fishing vessels, which you wouldn't necessarily  
22 say applied, but there was some good information in there that, if  
23 you were looking to understand how the Marine Safety Center was  
24 looking to have you consider things for stability, like free  
25 surface, you could go and read for clarification in those other



1 Marine Safety Center guides. But this is the only specific one to  
2 fishing vessels that I was aware of at the time, or I created.

3 Q. Lieutenant McPhillips, can you shift to page 8 on this  
4 exhibit please?

5 CDR DENNY: You're muted.

6 THE WITNESS: I mean, I think it was NVIC 586, which I'm sure  
7 is referenced here. Yeah, but --

8 BY LCDR COMERFORD:

9 Q. So Lieutenant McPhillips is putting up page 8 of Exhibit 49  
10 right now.

11 A. Okay.

12 Q. In this section, it discusses ice loads. My question to you  
13 is, when you were a staff engineer and receiving these  
14 submissions, did you ever get vessels that applied ice load?

15 A. Yes, I did. And I found that sometimes the ice loads weren't  
16 calculated in accordance with the guidance. And also, when we  
17 started looking at -- because basically what you do is you treat  
18 that -- like say if there's crab pots on the deck, you treat it  
19 like it's a big square, and you apply ice to it to get like a  
20 weight in moment of where the ice would be, like the center of the  
21 ice load would be, and then you apply that as a -- I guess a point  
22 load in GHS. And I had found sometimes that the icing was not  
23 always done in accordance with the standards that were there. And  
24 oftentimes, you know, it was not -- how do I say -- not calculated  
25 correctly or not as conservatively as, based on my calculation, I

1 was doing it.

2 Oftentimes, it was just a number provided without any backup  
3 calculations as to how they arrived at that number. So I would do  
4 my own calculation and arrive at a number that was oftentimes more  
5 conservative than what was provided and then usually talk to the  
6 naval architect, and between the two of us, we'd figure out what  
7 we thought the best answer was given, say, the crab pot  
8 configurations of how the crab pots were loaded, for example. But  
9 sometimes, like on the *Sea Venture*, they had crab pots in two,  
10 sometimes three locations on the ship, so you'd have to combine  
11 the ice loads from those various locations into, you know, a  
12 common ice load that you're applying in GHS.

13 Q. Do you recall in general different ways you saw people  
14 submitting the ice loads? Because you said sometimes they weren't  
15 fully --

16 A. Yeah.

17 Q. -- your interpretations.

18 A. So a lot of times early on I -- they would give me a number  
19 and a longitudinal transverse and vertical center of gravity for  
20 that ice load without giving me an explanation of how they arrived  
21 at it. So we started requesting as a -- I think there's a list in  
22 here of stuff we wanted done to provide for us, like a general  
23 arrangement plan or other things -- that they actually show us how  
24 they calculated the ice load and what it was based on so that we  
25 can understand how they were arriving at the ice load.

1 Q. And then when you -- in your experiences, when you were at  
2 the Marine Safety Center and when you were evaluating the plans,  
3 were you applying it in the same manner the naval architect did  
4 that submitted or did you have your own criteria to evaluate --

5 A. Well, it's not --

6 Q. -- and validate?

7 A. So it's, it's -- with all things law and C.F.R., there's  
8 always room for interpretation, right. So really understanding  
9 that you -- we all understood we needed to apply an ice load, that  
10 it was one of two levels of icing depending on where the vessel  
11 was operating, how we applied that and what it really meant. So,  
12 again, it was, over time, coming to an understanding with the  
13 naval architects -- which, by the way, there's some really great  
14 naval architects that are doing the stability for these fishing  
15 boats, and I learned a lot from them as much as anything else.  
16 But all trying to do the right thing and understand what the  
17 requirement said.

18 And the challenge with these fishing vessels is, for years  
19 and years, they're uninspected; no one from the Coast Guard who is  
20 ultimately responsible for interpreting these regulations had been  
21 involved to give our opinion on what we thought -- how we would  
22 interpret that regulation and how we would apply an engineering  
23 solution to that regulation. So this provided an opportunity for  
24 us to do that and clarify for them. Oftentimes, our application  
25 is more conservative than what somebody in industry may interpret

1 to do that.

2 But still, at the end of the day, I mean, these, these ice  
3 loads are what we got, you know, sent down from IMO. And based on  
4 some of the icings, I mean, I've seen on those of these boats, I  
5 don't, I don't think that it's necessarily conservative as the  
6 regulations. But at the Marine Safety Center, we apply the  
7 regulations and, and either approve it based on it meeting it or  
8 not, so --

9 Q. In an earlier testimony we heard perspective that naval  
10 architects apply ice loads sort of like a shoebox or similar  
11 terms, you know, top, sides.

12 A. Yeah, top and side icing. And then, so one of the challenges  
13 I've found is that sometimes they would do the top and one side  
14 with the idea that the ice would be only accumulating on one side.  
15 And I'm like, no, you need to do the top and even the front and  
16 back and the sides. The exception I would give is if all the crab  
17 pots, for example, were pushed all the way up against a deck house  
18 and there was an overhang, I'd let them not consider one side of  
19 it.

20 But think about five sides of a cube, right. And some people  
21 will interpret it as the top and one side. And so I started  
22 looking at, you know, the application of ice on the actual  
23 affected surfaces, to -- again, to be less conservative than -- to  
24 be more conservative than what some of the engineering firms were  
25 interpreting. I can't remember exactly what the final answer was

1 with the number of sides and the weight and the calculations. I'd  
2 have to dig back in. But I know that we applied it more  
3 conservatively than industry did.

4 Q. Thank you for your time today, Ms. Lowenstein.

5 LCDR COMERFORD: Captain, that's the questions I have for  
6 now.

7 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

8 At this time, Ms. Lowenstein, I'm going to pass it over to  
9 our colleagues at the National Transportation Safety Board.

10 Mr. Barnum?

11 MR. BARNUM: Thank you, Captain.

12 BY MR. BARNUM:

13 Q. And thank you, Ms. Lowenstein. I appreciate this. You're  
14 very knowledgeable. You're proving very knowledgeable on this  
15 topic, so you've been a great witness so far. Just a couple,  
16 couple questions, clarification to the benefit of me and possibly  
17 the public. ACSA you mentioned that earlier. Could you just  
18 remind us what that stands for?

19 A. Alternate Safety Compliance -- I forget what the last A is,  
20 but essentially, in the writing of 46 C.F.R. Subchapter C Part 28,  
21 there was a requirement that all commercial fishing vessels built  
22 after -- I believe it was 1979, were required to be classed in  
23 load lines. After, classification societies within the United  
24 States generally will not take on vessels that are more than, say,  
25 20, 25 years old, and a lot of these fishing vessels were older

1 than that. So it's my understanding Sector Puget Sound stood up  
2 this ACSA and it was the 2006 timeframe to try to help not put  
3 these commercial fishermen out of business, but do to a government  
4 equivalent of what classification and load line requirements of  
5 the 46 C.F.R. Chapter 28 were intending to do.

6 Q. Okay. So you --

7 A. So it's, it's basically supposed to be a government-like  
8 version of classification of load lines for these boats, for, for  
9 -- it's, again, it is head and gut fish processors only.

10 Q. Correct. Okay. Understood. So it, it is not all commercial  
11 fishing vessels?

12 A. No.

13 Q. All right. Okay. I want to make that clear. Now, your time  
14 there at MSC, you conducted plan reviews on these ACSA vessels,  
15 load lined vessels and --

16 A. So, it's --

17 Q. -- inspected vessels?

18 A. -- again, I wouldn't, I wouldn't say plan reviews because I  
19 wasn't reviewing -- I was only reviewing anything related to the  
20 stability and loading of the vessels. So I didn't do a  
21 longitudinal strength calculation for a vessel unless I was  
22 concerned that they were utilizing parts of the structure that I  
23 didn't think were originally designed to be a part of the  
24 watertight hull section. So it, it was only plan review for  
25 structures or something in support of validating stability --

1 Q. Okay.

2 A. -- and loading of the vessel.

3 Q. Okay. Understood. Strictly stability review. So your time  
4 there completing these reviews of stability, did you ever conduct  
5 a review of stability assessment that wasn't part of the ACSA  
6 Program or a load lined vessel or a --

7 A. Yes.

8 Q. -- inspected vessel?

9 A. Well, the commercial fishing vessels are uninspected.

10 Q. Right.

11 A. But did I review -- fishing vessel stability for a vessel  
12 that -- I'm sorry, can you ask that again?

13 Q. Yes. So in context, I'll get to it, vessels such as the  
14 *Scandies Rose*, they're not required to -- they're not members of  
15 the ACSA Program. They're not required to carry a load line.  
16 They're uninspected, and their stability --

17 A. Okay.

18 Q. -- but they're required to have stability instructions. Did  
19 you ever --

20 A. So if we were asked to review a vessel we weren't required to  
21 review, I'm not sure -- like I, I never -- nothing ever came  
22 across my desk that I wasn't either asked by an Office in Charge  
23 of Marine Inspection to review or it wasn't required to be  
24 reviewed either through our oversight program of ABS or through  
25 involvement of another OCMI.

1       Like I remember there were two commercial fishing vessels in  
2 the South Pacific I was asked to look at that were not a part of  
3 the ACSA Program, but there was concerns over their stability  
4 instructions. And I really don't remember the name of the two  
5 boats, but they might have been load lined, I don't recall. But  
6 there was, there was something going on with these two boats in  
7 the South Pacific that the OCMI out there had some concerns with  
8 that I was asked to look at.

9       But, again, it's -- vague recollection, but to the best of my  
10 knowledge, I don't believe we ever were requested to review any of  
11 these booklets for -- I'll call them the not required to be -- you  
12 know, the -- essentially, 46 C.F.R. does not require a third party  
13 to validate or verify, which is really what you're getting at with  
14 these bigger --

15 Q.   Correct.

16 A.   -- fish processors, by putting ABS in their (indiscernible),  
17 they literally are what they call third, third party independent  
18 verifier. They're meant to be that party looking over the  
19 shoulder of the engineer, the PE, to make sure that they're doing  
20 it the right way in accordance with the law.

21       And so a lot of -- a large number of these fishing vessels  
22 that are out there in the world are not -- again, the PE does the  
23 stability and then that's it, right. There might be some  
24 commercial fishing vessel safety inspections. I'm not up on what  
25 the rules are since 2016, but -- and there were voluntary, you



1 know, fishing vessel inspections where you could come out and make  
2 sure your flares were installed correctly and other things, but I  
3 don't think there's ever been a requirement for the stability for  
4 a lot of fishing vessel fleets if it's not these large processors  
5 or something that's large enough to not require a load line to  
6 have anybody come in and look at them.

7       And because it's so unregulated, it's kind of like the Wild,  
8 Wild West. And there's a lot of scary things out there. I mean,  
9 some of these boats that I looked at -- like the *Sea Venture* was  
10 probably one of the scariest ones that I looked at the whole time,  
11 but when you actually start peeling back the layers of -- when I  
12 was running calculations on that boat on my own eventually, I had  
13 the thing downflooding at like seven degrees, which is really,  
14 really small. It's not a lot of, you know, free board and, and  
15 righting energy. I mean, most vessels that exist in the word have  
16 a free board of at least, I don't know, somewhere between six to  
17 12 inches. These vessels were operating with a free board of two  
18 inches.

19       And sometimes they were operating with the draft -- forward  
20 draft of the vessel above the watertight hull boundary. They were  
21 basically overloading the vessel from the existing watertight  
22 boundary to the point that essentially the whole true watertight  
23 volume of the hull was submerged, and they had no real free board  
24 to, to speak of from an engineering perspective. And trying to  
25 explain that that's not a good thing and understanding that that's

1 not allowable -- well, the engineering firms know that, but they  
2 also have customers that are the fishing vessels that they make  
3 their money by having crab pots onboard. And so, until somebody's  
4 going to come in and really enforce that there is a law and you  
5 have to follow the law, you know, it's -- everyone's going to  
6 interpret it their own way and it's, it's just really difficult to  
7 try to hone in on a particular thing.

8       And the engineering firms I work with -- Jensen, Hockema  
9 Whalen -- they, they did a really great job of being consistent.  
10 And when we told them we wanted something done differently, they  
11 applied it and they did it, no questions asked. Their heart --  
12 they wanted to do the right thing. They want to keep these guys  
13 safe while they're fishing. But unless somebody can really force  
14 their hand, the person who's paying them, I believe -- you know,  
15 there's -- if you don't like what Naval Architect A is saying, go  
16 down next door and get Naval Architect B and you'll probably get  
17 the loading instructions --

18 Q.   Sure.

19 A.   -- you want for the loading conditions you want.

20 Q.   Sure.

21 A.   So, again, this not being regulated is, I think, one of the  
22 biggest challenges. Not having that third party oversight is one  
23 of the biggest challenges to making sure that any of these boats  
24 are, are safe and the stability instructions are done to the best  
25 of anyone's ability with a third party verifying that they're

1 being done in accordance with whatever standard we're going to  
2 apply.

3 Q. Sure. Great. So -- excuse me, there's a little bit of an  
4 echo. Okay. Let's try that. Can you hear me okay?

5 A. Yeah, I'm fine.

6 Q. Okay. So let's -- speaking of the *Sea Venture* -- or I'm  
7 sorry, *New Venture* --

8 A. No, the *Sea Venture* was the vessel I did.

9 Q. Okay.

10 A. I never worked on the *New Venture*.

11 Q. Okay. Great. *Sea Venture*. You stated that you were very  
12 alarmed after you, you know, conducted your initial review of the  
13 documents, and then you responded to Mr. Culver, stating that you  
14 need more information or you -- actually, I'm sorry, you stated  
15 that you were -- the owner wanted to go with a different firm.  
16 Did you ever hear back from him?

17 A. No, I did not.

18 Q. Okay.

19 A. I never heard from Mr. Culver again, and I don't believe he  
20 regularly submitted any -- like, a lot of Jensen does commercial  
21 vessels, Subchapter K vessels, H vessels. So we're familiar with  
22 those engineers, and we work with them regularly. Mr. Culver, to  
23 my knowledge, I don't think regularly submitted things to the  
24 Marine Safety Center at all. He just -- the work -- work he did  
25 was not on inspected vessels as a general rule is my

1 understanding. I mean, there are a lot of naval architects we run  
2 into on a regular basis. You know, I know who Mr. Bronson is.  
3 I've run into Mr. Parrott and, you know, a whole bunch of other  
4 engineers. But at the end of the day, it's like I -- no one was  
5 really familiar with him.

6 Q. Okay. So, when you did get that -- when you did do that  
7 assessment, what -- is any -- is anything triggered? I mean, is  
8 there any further review of maybe the naval architect's other work  
9 that you may have come, come across? Is he put on a list? I  
10 mean, is there --

11 A. So it's, it's an interesting question because I did, at the  
12 time, ask -- and this is throughout all of my fishing vessel  
13 inspections -- is there a way that we can notify the PE licensing  
14 board that we're concerned that maybe, you know, people are not  
15 introducing the level of conservatism or, or quality assurance --  
16 I'm, I'm trying to use the right words here -- into their  
17 calculations as we would like to see, if there was a way to kind  
18 of report on that.

19 And I, I think I pulled the string on it, but I could never  
20 really figure out what was the proper method inside the Coast  
21 Guard by which -- and we have this list of 1092 -- basically, if  
22 you have a professional engineering license and you want to  
23 submit, normally we guarantee the 30-day turnaround time. If you  
24 want to submit something and stamp it with your PE and it's either  
25 1082 or 1092 -- I'm sure Lieutenant Commander Comerford can

1 correct me -- that you get this expedited review.

2 Q. Okay.

3 A. So if you got the expedited review as the submitting PE and  
4 we found problems with your calculations, you got put on a no,  
5 you're not allowed to submit your 1092 expedited reviews at the  
6 Marine Safety Center again, because we're going to do a really  
7 thorough check, because we're not confident that, you know, you  
8 deserve an expedited review because you do such a quality job  
9 because you're PE. So we would not allow those PEs to have that  
10 expedited review process because we've gone through enough of  
11 their calculations or had concerns to a point that their, I guess,  
12 advance to the front of the line privileges were revoked.

13 Now, how you report a PE out in industry, again, working at  
14 the Coast Guard, it was one of those things that people are like,  
15 eh, we don't really want to go there. You know, there's, there's  
16 no formal process that I could ever identify within the Coast  
17 Guard by which I could do that. And I ran across other PEs that  
18 were not fishing vessel related that I asked that question of, but  
19 again, there was no clear, constructive way for me as an engineer  
20 representing the Coast Guard for these inspected or uninspected  
21 vessels to, to raise the flag.

22 Q. Sure. I want to circle back to one of my last questions  
23 here. So you talked a little bit about ABS and how they are an  
24 accredited organization that does the, you know, assessment of the  
25 stability instructions on, on vessels. What kind of oversight

1 does your group have over them?

2 A. So, every time ABS conducts a review, they are required to  
3 notify the Coast Guard that they've done a review, and the Coast  
4 Guard at the Marine Safety Center at the time pulled a certain  
5 percentage of certain types of vessels for oversight to verify  
6 that ABS was doing this work on our behalf. And so I was asked by  
7 the OCMI in Puget Sound to pull for oversight all of the ACSA  
8 vessels stability that ABS had done on our behalf. And honestly,  
9 I found not quite as many, but still a significant number of  
10 concerns -- not concerns, but things not being done to the quality  
11 or conservatism that, as the interpreter of the regulations, we as  
12 the Coast Guard wanted them to do.

13 And so I actually sat down with a guy named Tom Gruger (ph.)  
14 at ABS, and we went through -- because they have -- they're ISO  
15 9001 certified, so they have checklists and policies that they  
16 follow for each one of the different types of vessels, they review  
17 stability and other things, and we went through and verified that  
18 more language was added so that when the engineers at ABS were  
19 actually reviewing the stability of these large fish processing  
20 vessels, that they were interpreting it with some of the  
21 information that was in the H2-19 fishing vessel guidance that we  
22 put out there and really, you know, digging into making sure that  
23 the inspections were done.

24 Because they do an inspection for load line that identifies  
25 the downflooding points and stuff that then the engineer in ABS

1 office that's validating stability uses to validate that the right  
2 downflooding point is identified. And sometimes there were  
3 discrepancies between the load line survey and what was actually  
4 in the stability booklet that they were reviewing. And just, you  
5 know, just really trying to make it smoother and make sure that  
6 they were paying as much attention to these uninspected vessels as  
7 they were the inspected ones. And a lot of it was just no one  
8 from the Coast Guard had ever really looked at these regulations  
9 because we're not examining these vessels --

10 Q. Right, right.

11 A. -- so to give the interpretation of what we think is the  
12 conservative way we would interpret this, you know, requirement.  
13 Do I actually need to include the vessel's transverse center of  
14 gravity in a dead weight or -- sorry, inclining survey or not?  
15 Well, when it has huge impacts on stability for some of these  
16 fishing vessels, well, yeah, we want you to, but it's not  
17 something you would typically think about.

18 Q. Right.

19 A. So, again, having that TCG be included was something ABS  
20 wasn't doing and we then requested that they do. A lot of these  
21 fishing vessels were being done -- their inclining experiments  
22 with like lots of extra stuff onboard. Well, you're only supposed  
23 to have two, two percent of anything that can't physically be like  
24 tied down to the vessel, right. If it's not welded it should come  
25 off for the light ship. Really were making sure they were

1 enforcing that two percent to really understand what's the --  
2 their vessel stability look like and then purposely adding back  
3 all the weights so you do -- you really do have a true  
4 understanding of the loading conditions and how the vessel in a  
5 particular loading condition is going to react to, you know, the  
6 stability criteria, i.e. the seas.

7 Q. Great, great. Well, thank you for that. And I just -- I  
8 want to see if I can summarize, and tell me if I'm correct in  
9 this. So basically, if the vessel stability instructions are  
10 required to be reviewed by ABS, the Coast Guard will take a  
11 percentage of those and do their own independent review  
12 periodically -- yearly I assume or --

13 A. Yeah, and that's only if the -- so the vessels are coming to  
14 ABS because they're required to be load lines --

15 Q. Right.

16 A. -- and ABS is doing those load lines certificates or trim and  
17 stability booklets in accordance with the law. They notify to us  
18 because we've given them the ability to do that on our own behalf.

19 Q. Right.

20 A. If somebody goes to ABS to have their stability verified  
21 because the vessel is maybe classed, but we don't necessarily have  
22 a role in oversight of that, we may not necessarily get notified  
23 by ABS that they did stability on that particular vessel. So just  
24 -- it's, it's a narrow scope of group of vessels that ABS does,  
25 and then we get notified of probably 90 percent of that, and then



1 we would pull maybe ten percent unless directly asked to --

2 Q. Correct.

3 A. -- by maybe somebody who is concerned.

4 Q. Okay. Okay. And then the vessels that are not regulated by  
5 a -- or are not reviewed by ABS and are not specifically asked for  
6 review from the OCMI, there is no oversight by Coast Guard on  
7 those?

8 A. It would be a rare occasion if there was really -- like, I  
9 talked about these two vessels in the Pacific Southwest, like it's  
10 a rare thing that you might get a call from a concerned inspector  
11 in the field that they want --

12 Q. Right.

13 A. -- you to take a look at something specific. But it's, it's  
14 a rarity. That and the only other time I did stability on  
15 commercial fishing vessels was helping out with accident  
16 investigations, which is like what Andy Lawrence is going to do  
17 for you guys tomorrow.

18 Q. Sure.

19 A. That's the only other time we would look at stability for  
20 fishing vessels is when something bad had happened.

21 Q. Perfect. Okay. Understood. Thank you very much. I really  
22 appreciate that, and it helped me out a lot.

23 MR. BARNUM: That's all the questions I had, Captain.

24 CAPT CALLAGHAN: Thank you, Mr. Barnum.

25 Ms. Lowenstein, I'm going to pass it around just to the --

1 our parties in interest.

2 So, Mr. Stacey, any questions for Ms. Lowenstein?

3 BY MR. N. STACEY:

4 Q. Good afternoon, Ms. Lowenstein. Nigel Stacey. Just a couple  
5 of very, very brief questions. You discussed earlier with  
6 Lieutenant Commander Comerford that you would, to best assess the  
7 stability of a vessel, you know, review the vessel and crew  
8 practices aboard a vessel. Can you tell us why it was important  
9 for you to assess stability to know those practices?

10 A. Okay. So the -- that -- the stability part is very  
11 sensitive, meaning they don't have a lot of margin between what  
12 their allowable KG is and where they're operating at the actual  
13 loaded condition of the vessel. So it could mean a difference of  
14 how you unload crab pots into -- how you load and unload crab pots  
15 in what order. If you did it in a certain order, you'd exceed the  
16 stability criteria. If you did it in a different order you'd  
17 pass.

18 So you'd want to make sure the stability instructions -- in  
19 some cases, the naval architects were telling the crew the best  
20 way to load and unload crab pots to keep them within the stability  
21 criteria. The, the engineer firm that ended up finally doing the  
22 *Sea Venture* did an amazing job. They ended up running, I think,  
23 in the neighborhood of -- sometimes they would run 1,000 different  
24 stability loading conditions against the different criteria to  
25 show how crab pots were loaded and unloaded, the sequence in which

1 you should be taking crab pots off a certain part of the boat,  
2 again, burn fuel in what sequence.

3       Like it's -- it becomes a very specific mathematical -- like  
4 you leave, you leave, you know, port with this many crab pots and  
5 fuels in this tank. In order to keep the vessel within stability  
6 limits, you have to burn these fuel tanks in this order to this  
7 percentage and then unload crab pots in a certain way. And  
8 that -- I mean, we did that with the *Sea Venture*. Her stability  
9 margins were narrow enough that we actually had to very, very  
10 deliberately examine how the vessel was unloaded and unloaded on a  
11 regular basis to be sure that they operated her within -- inside  
12 the stability limits.

13       And so we talked to the operator to be like, what do you do?  
14 What's the process you follow? And then within what they did, we  
15 further guided them to keep them within the stability limits that  
16 we as naval architects understood and together found -- again,  
17 some of these operating instructions or current stability booklets  
18 are quite -- how do I say? I don't want to say involved because  
19 the naval architects would take the, the stability -- and some of  
20 these things you do in stability calculations, we took out the  
21 ability of these guys to do a stability calculation and gave them  
22 instructions that said, when these tanks are loaded this way,  
23 here's the number of crab pots you can carry.

24       When it's -- you know, and it was -- I can only encourage you  
25 to go look at -- you know, have -- see if you can have an

1 engineering firm produce one of these, but the idea is that these  
2 guys don't have stability instructions. When you're doing the  
3 stability instructions for a big ferry, the master's trained in  
4 stability. They know how to do these calculations and what it  
5 means. These fishing guys don't. So to really try to be very  
6 clear, concise, and direct with what they should do and how they  
7 should do it in a way that meant something to them to keep them  
8 inside these stability criteria without them having to understand  
9 what a righting arm curve or what GM is or anything. And to make  
10 sure they understood that icing's bad, right. And, and to be  
11 careful about certain things. And, you know, also, don't put  
12 stuff there. You're deck's not designed to carry a load there.  
13 You know, like simple things like that.

14 Q. So, so it's fair then the loading and unloading is obviously  
15 a very important one. Would you have a set set of questions, a  
16 standard set of questions you would ask each vessel and operator?

17 A. It really, again, depended on the size of the vessel, the  
18 kind of fishing that they were doing. And, and so these were all  
19 head and gut fisher processers, right. But there were some long  
20 liners, there were some cod ends and other things. And so  
21 depending on the type of fishing they were doing and the size of  
22 the boat, we would ask question a little bit differently.

23 Because these big huge fisher processer are very -- you know,  
24 they have captains that understand the, the -- the license to  
25 operate these vessels require stability instructions versus the

1 small kind of mom and pop, I've got five to seven people, it might  
2 be mariners and crew onboard and everyone else is -- think of them  
3 as like a factory worker. They're not mariners. They're people  
4 working inside a processing plant, which in some cases were 120 of  
5 137 person crew, right. So really making sure that it's  
6 simplified enough that you're keeping the people safe who are on  
7 there and making sure that the small mom and pops can understand  
8 how to operate their vessel in a safe manner in a way that works  
9 based on their knowledge level.

10 Q. Are you aware of any documents out there or guidance where  
11 you, depending on the kind and size of vessel that you have, look  
12 so that when you do go and speak with these operators, they'll be  
13 possibly more prepared to answer those questions?

14 A. Honestly, there are two engineering firms I work with the  
15 most, Jensen and Hockema Whalen, are the most knowledgeable, in my  
16 mind, of the different ranges and types of fishing vessels, and I  
17 know based on the engineers that they work with that they may have  
18 something similar to that that they use. Because as, as engineers  
19 and engineering firms, like anything, you create job aids. You  
20 create things that are repeatable so that you can take less time  
21 to do something. Again, it's all about being efficient in the job  
22 you're doing. And I believe there were some check sheets that the  
23 -- maybe Office in Charge of Marine Inspection Sector Puget Sound  
24 might have as well, but I think that's more safety related than  
25 necessarily like details of how the vessel was operated.

1 Q. Okay.

2 A. And it was only over time that I started to understand what  
3 questions to ask and, and how these vessels were actually  
4 operated. I mean, if you don't understand how they -- they're  
5 operated and the terms they use and the rhythm of what they're  
6 doing, it's really hard to actually be able to do stability in a  
7 meaningful way. You have to understand who these people are, what  
8 they're operating, how they're working, and the challenges they're  
9 facing.

10 Q. Certainly so. Thank you very much for your testimony today.  
11 It's been very helpful.

12 MR. N. STACEY: Captain, those are all the questions I have.

13 CAPT CALLAGHAN: Thank you, Mr. Stacey.

14 I'm going to pass to Mr. Barcott.

15 Ms. Lowenstein, just in the interest of time, I am going to  
16 ask if you -- if Mr. Barcott has any questions that we just try  
17 and be as brief as possible.

18 THE WITNESS: Sure.

19 CAPT CALLAGHAN: Mr. Barcott?

20 MR. BARCOTT: Thank you, Captain.

21 I appreciate your testimony. I don't have any questions.

22 CAPT CALLAGHAN: Thank you, Mr. Barcott.

23 Ms. Lowenstein, I greatly appreciate you time today. I  
24 really appreciate you contributing to this hearing and I  
25 appreciate your time and bearing with us in the virtual

1 environment here.

2 THE WITNESS: No problem.

3 CAPT CALLAGHAN: So at this point, you are now released as a  
4 witness from this formal hearing. Thank you for your testimony  
5 and cooperation. If I later determine that this Board needs  
6 additional information from you, we'll contact you through our --  
7 your counsel. If you have any questions about this investigation,  
8 you may contact the investigation recorder, Lieutenant Ian  
9 McPhillips. Thank you again for your time.

10 THE WITNESS: Okay. Thank you.

11 (Witness excused.)

12 CAPT CALLAGHAN: The time is now 1405. This hearing will go  
13 into a brief recess, and we will resume at 1415.

14 (Off the record at 2:05 p.m.)

15 (On the record at 2:14 p.m.)

16 CAPT CALLAGHAN: Okay. The time is 1415. This hearing is  
17 now back in session. We will now hear from Mr. John Lawler.

18 Mr. Lawler, Lieutenant McPhillips will now read -- will now  
19 administer your oath and ask you some preliminary questions.  
20 Lieutenant McPhillips?

21 LT McPHILLIPS: Please stand and raise your right hand.

22 (Whereupon,

23 JOHN LAWLER

24 was called as a witness and, after being first duly sworn, was  
25 examined and testified as follows:)

1 LT McPHILLIPS: Please be seated, sir. Please state your  
2 full name and spell your last name.

3 THE WITNESS: John Lawler, Lima-Alpha-Whiskey-Lima-Echo-  
4 Romeo.

5 LT McPHILLIPS: Please identify counsel or representative, if  
6 present.

7 THE WITNESS: Joseph Stacey.

8 LT McPHILLIPS: Please have them state and spell their last  
9 name, as well as their company or firm.

10 MR. J. STACEY: My name is Joe Stacey with the firm Stacey  
11 and Jacobsen, and I'm here with John Lawler.

12 LT McPHILLIPS: Please tell us, what is your current  
13 employment and position?

14 MR. J. STACEY: I am a partner with the law firm of Stacey  
15 and Jacobsen.

16 LT McPHILLIPS: I apologize. Mr. Lawler, please tell us what  
17 is your current employment and position?

18 THE WITNESS: I'm currently doing odd jobs at this point  
19 since I have not been able to fish since the accident. So that's  
20 not really specific. In general, doing what I can get to get by  
21 right now.

22 LT McPHILLIPS: Can you briefly tell us your relevant work  
23 history?

24 THE WITNESS: I've been fishing for the last 12 years  
25 roughly. Before that -- there wasn't really much before that.



1 Just odd, odd jobs as well.

2 LT McPHILLIPS: Can you please describe your education  
3 related your position as a commercial fisherman?

4 THE WITNESS: I've ran boats. I owned my own boat. Sorry,  
5 I'm really nervous right now. I took the 100-ton course. I never  
6 followed through with getting a license itself because I was out  
7 at sea and you're only allotted six months to actually procure  
8 that after passing the test.

9 LT McPHILLIPS: Do, do you hold any licenses or certificates  
10 related to your job now?

11 THE WITNESS: Negative, sir.

12 LT McPHILLIPS: All right. Thank you, sir. Captain  
13 Callaghan will now have follow up questions for you.

14 EXAMINATION OF JOHN LAWLER

15 BY CAPT CALLAGHAN:

16 Q. Good afternoon, Mr. Lawler. And, on behalf of the, the Coast  
17 Guard and behalf of the Marine Board of Investigation, thank you  
18 for being here. And I'd like to extend our extreme gratitude for  
19 your participation and our deepest condolences for the loss  
20 experienced during this tragedy. So again, thank you for your,  
21 your willingness to be here in person today. I think we all have  
22 a lot to learn from your experience and, you know, not only  
23 from -- to help better understand the facts surrounding the case,  
24 but as a survivor, we -- that provides a lot -- a great  
25 opportunity for everybody to gain some knowledge and see how we

1 can make improvements in the future.

2       There's a (indiscernible) this, this will be done. Any  
3 evidence that'll be pulled up, any exhibits, Lieutenant McPhillips  
4 will pull up on the screen in front of you and on the, the big  
5 screen behind me for you to view. If for some reason that you  
6 have trouble seeing it or have trouble understanding a question,  
7 please feel free to stop, ask me to rephrase the question or just  
8 slow down, and we'll make that happen for you.

9 A. Yes, sir.

10 Q. We have some scheduled breaks, but if at any time you need  
11 additional breaks or you need to take a short recess, please let  
12 us know, and we will.

13       So, Mr. Lawler, can you just -- I, I know Lieutenant  
14 McPhillips asked a few background questions. Can you tell us how  
15 long you've been a commercial fisherman?

16 A. Roughly the past 12 years.

17 Q. Okay. And what areas have you fished in previously?

18 A. I started out -- well, I guess my career goes a little  
19 further back, but as far as commercial goes, about 12 years.  
20 Prior to, I did some sport fishing on charter vessels down in  
21 Southern California. My first initial experience on a fishing  
22 boat was in Southern California as well in the squid fishery out  
23 of San Pedro, California.

24 Q. And with regards to your experience in, in the Alaska  
25 fisheries, what types of fish catch or seasons have you worked

1 previously?

2 A. I, I didn't hear that, sorry.

3 Q. So with regard to your experience in the Alaska fishing  
4 region, which fisheries have you been involved in fishing?

5 A. Bristol Bay drift netting, also red crab season, opilio  
6 season, pot cod season, state and federal. No dragging at all.

7 Q. And so, aside from non-merchant -- merchant marine -- mariner  
8 credentials, do you have any other formal certifications? For  
9 example, first aid training, EMT, any stability or safety training  
10 in regards --

11 (High pitched ringing sound.)

12 CDR DENNY: It's an Amber Alert.

13 THE WITNESS: Amber Alert. Do I -- so you -- say that again  
14 now?

15 BY CAPT CALLAGHAN:

16 Q. So aside from Coast Guard credentials, do you have any other  
17 formal training, first aid, any basic safety training for --

18 A. I don't hold anything currently, but all through my years of  
19 my career, I've held CPR, also my AB, a few other things as well.  
20 Advanced firefighting and such.

21 Q. Have, have you ever attended any of the NPFVOA training  
22 courses?

23 A. No, just the -- a few, like the AB license out of like San  
24 Diego and whatnot. Nothing was ever done up in Alaska here.

25 Q. And have you ever -- had you ever sailed on any vessels in

1 similar configuration to the *Scandies Rose* before?

2 A. Well, this would be my second aft house boat. I've fished a  
3 season on the *Wizard*, which was also an aft house boat, but the  
4 rest of them all have been house forward boats.

5 Q. Any differences between the two vessels?

6 A. In, in what regard would you say?

7 Q. Just any, any -- I guess in regards to, I guess, in  
8 operation, operationally?

9 A. No, generally, generally speaking, you know, we kind of have  
10 the same program. Everyone knows their place and their job. And  
11 the only thing really different is I didn't know a lot of the guys  
12 on, on the *Scandies* personally.

13 Q. Had you sailed with any of the crew from the *Scandies* before?

14 A. Dean Gribble, I had, I had sailed with him prior to this. We  
15 did red crab on the *Western Mariner* together.

16 Q. And had you ever had -- have you ever been on another trip on  
17 the *Scandies Rose* before this --

18 A. Negative. I've only seen the boat in passing. And as I  
19 said, I, I -- well, I don't know if I said this, but I own a  
20 Bristol Bay boat, and we would see them in the bay tendering.

21 Q. In, in what capacity did you -- had, had you worked with  
22 Mr. Gribble before or just known, known of him?

23 A. I had never known him prior to working on the *Western*  
24 *Mariner*. I completed the -- but we did a little bit of black cod,  
25 and then we went into the red crab soon thereafter.

1 Q. Okay. So thank you. That's, that's some -- just some  
2 background questions. My intent now is what I'm going to -- the  
3 way I'd want to -- intend to form the rest of the questions is  
4 kind of talk about prior to the voyage, and then we'll go to into  
5 once, once you got underway and work up into the accident itself.  
6 So prior to the voyage, what was your employment directly leading  
7 up to employment with the *Scandies Rose*?

8 A. Well, I had just got done on the *Western Mariner*, as, as I  
9 stated earlier. And up until then, I was going to make a change,  
10 go on a different boat for the opilioseason. So we just had that  
11 break in between, and that's when I started making phone calls to  
12 reach out and contact someone that may have an opening on their  
13 vessel for the winter.

14 Q. And, and how did you come about the, the job on the *Scandies*?  
15 You said you made some phone calls. How, how far before the  
16 voyage had you been hired by them?

17 A. I was actually pretty delayed, honestly, because I had gotten  
18 in contact to Gary himself. He was acquainted with a mutual  
19 friend. Her name was Stephanie Anthony (ph.). She was a  
20 bartender in Dutch Harbor, so we all kind of knew each other. And  
21 she name dropped me to him, and he reached out to me and let me  
22 know that there was a potential opening. They weren't sure if  
23 someone was going to make it back. You know, it was kind of a  
24 wishy washy type deal.

25 Waited a few days, then I started kind of reaching out to him

1 saying, you know, I -- it's cutting close to the season's going to  
2 start. I need to fill a spot. Otherwise, I'm going to be without  
3 work for the winter. So he finally said, okay, you know, we're  
4 going to go ahead and take you with us. I said great. And that's  
5 kind of how that whole thing started there.

6 Q. And so were you aware if there was someone who was in --  
7 scheduled to sail in your -- in that position prior to your  
8 employment?

9 A. Yeah, he had told me that. And I stood by -- you know, was  
10 standing by for a little bit, and it was literally on the same day  
11 I, I got another call from another boat, the *Sandra Five*. Captain  
12 Bob there had called and offered me a job. But in the same day  
13 I'd verbally committed to, without a plane ticket of course, but  
14 verbally committed to Mr. Cobban that I would go with him. So in  
15 turn had to tell him, Bob, that, you know, I had already made a  
16 verbal commitment and that was my word, so I'm sorry, I have to  
17 deny the job that you're offering me right now.

18 Q. Okay. And, and once you had the conversation with Captain  
19 Cobban, can you tell me -- just explain what the process was to  
20 complete your employment?

21 A. So he put me in line with Gelia Cooper, which you guys have  
22 already spoke with. She in turn called me, a whole line of  
23 paperwork. I mean, nothing -- I'm really used to doing all that  
24 kind of paperwork, but it was a little extensive. I don't know if  
25 it was due to prior insurance issues or not, but like background

1 checks and, you know, all sorts of things like that. I mean, your  
2 standard drug tests and, and so forth.

3 Q. Lieutenant McPhillips, can you pull up Exhibit 17 please?  
4 Okay, while he's pulling this up -- it should be the employment  
5 contracts. So do you recall what kind of things that -- once we  
6 get that up -- so does this look familiar to you, Mr. Lawler?

7 A. Yes, sir.

8 Q. And I, I know this one on here isn't yours. Yours would be  
9 later in, but I just wanted to have this as -- to -- for you to  
10 verify that this is the type of agreement that you signed when  
11 employed by the *Scandies Rose*.

12 A. Yes, sir. And it's, it's all -- most contracts are generally  
13 pretty standard as far as like any prior injuries and what your  
14 percentage is going to be. Generally speaking, it's a lot less  
15 than what your actual percentage is as it shows, I think, further  
16 down in that document that you're started with an X amount  
17 percentage per pay and on completion of the season you receive the  
18 rest as a, quote/unquote, "bonus."

19 Q. Okay. And do you recall any other -- so you mentioned a  
20 health -- kind of a background questionnaire on your health. Any  
21 other provisions within this regarding drug and alcohol use or  
22 anything else?

23 A. Yeah. I, I mean, it's, like I said, standard. So generally  
24 speaking, every contract (indiscernible) I've ever been on is zero  
25 tolerance, according to the paperwork.

1 Q. Okay. Thank you. Lieutenant McPhillips, you can pull that  
2 exhibit down please. And, Lieutenant McPhillips, would you mind  
3 pulling up Exhibit 081 please? Okay. And can you go down to the  
4 last page please? Mr. Lawler, can you tell us if this -- can you  
5 verify that this, this is -- this shows a drug test that you had  
6 completed?

7 A. Yeah. Yes, sir, that's -- yep, that is mine.

8 Q. And where was this drug test administered?

9 A. That was in Anchorage, Alaska, not too far from my house.

10 Q. And what was the -- what were the results of this drug test?

11 A. Negative for everything.

12 Q. Okay. Thank you. Lieutenant McPhillips, you can take that  
13 down please. And so, in your -- for your employment on the  
14 *Scandies*, what position were you employed for on the *Scandies*  
15 *Rose*?

16 A. I, I was just hired as a deckhand.

17 Q. And as a deckhand on the *Scandies*, what were the -- what were  
18 your main tasks or functions to be?

19 A. Main, main functions are, are just everything that has to do  
20 with fishing. We're, you know, hauling the gear, you know,  
21 counting crab. I mean, I would also take other, you know,  
22 responsibilities on, too, even though I wasn't hired for it, but  
23 that's just always been my MO. Art Ganacias, the chief engineer  
24 on there, I would help him go do some of his work because I had  
25 experience prior. But as far as what I was hired to do was just



1 merely the, the deckhand work, throwing hook, counting crab, tying  
2 the boat up, taking wheel watches. The list goes on.

3 Q. Okay. I'm going to move to the time so -- now, in regards to  
4 time, once you've, you've been employed by *Scandies Rose*, can you  
5 please describe everything from the time you landed in Kodiak and,  
6 you know, to the time you got -- your initial boarding of the  
7 *Scandies Rose*? So from the time, you know, getting to Kodiak,  
8 getting onboard?

9 A. Yeah, so I, I originally flew in with -- it would have been  
10 Art, David -- no, excuse me, sorry, David was already in Kodiak.  
11 I flew in with Art, Brock, and Seth. I believe that was it for  
12 us. We flew in, I don't know, it was early morning. We went  
13 straight to the boat, and the boat was tied up in the harbor.  
14 There was already pots on the boat. We put our bags on. Gary  
15 hadn't quite got there yet. I believe he was on a later flight  
16 that day.

17 So we were just cleaning some stuff up. There was a big mess  
18 on the deck, as, as far as I recall. It was steel everywhere from  
19 a project they had worked on, which you had noted earlier in this  
20 -- these hearings. Paint stuff scattered throughout the deck.  
21 You know, it was just kind of clean up the -- whatever had  
22 happened while the offhand (ph.) was happening and then stand by  
23 and wait for Gary to get there. Gary showed up soon thereafter.  
24 Then we had to move the boat over to the Trident dock so we could  
25 load our gear and rig pots.

1 But it took probably the better part of three, four hours to  
2 move the boat because the, the lines we were using weren't the,  
3 the regular Samson line, you know, the, the newer aged stuff. It  
4 was the three braid, pretty hard laid stuff, and it had been froze  
5 over from being -- the boat sitting there for the last -- I don't  
6 know, I don't know when they laid the boat up, but it took quite  
7 some time of putting water on the lines, beating it with, you  
8 know, our ice hammers trying to get the, the boat cut loose. So  
9 that was quite an extensive task.

10 Then we moved over to the Trident dock, and it was just  
11 boogey on gear. You know, putting triggers in for cod. They were  
12 re-web pots, so they weren't ready at all. We had to start doing  
13 that. And the first day, that's all we did for probably 18-plus  
14 hours working on that.

15 Q. And I'm sorry if I missed it, so where, where was the vessel  
16 when you first got onboard? I see -- you said you moved to  
17 Trident, but where was it when you got onboard?

18 A. I don't know Kodiak that well because I haven't fished a lot  
19 of out of there, but I believe it's Dog Bay is what it's called  
20 over there. It's across the bridge in town there.

21 Q. Okay. And, and you also mentioned doing some cleanup work.  
22 Do you remember who assisted you in that cleanup work?

23 A. It was kind of a mixed bag of us. We, we were all looking to  
24 staying busy, right. And if you're, you're leaning, you're  
25 cleaning. And, you know, a clean boat's a happy boat. So I think

1 everyone was trying to do their part there. And a lot of  
2 questions were being asked, by me, of course, because I'm fresh to  
3 the boat. I want to know like what's all this steel from and, and  
4 I got some answers out of Art, you know. General maintenance on  
5 the outside of the boat, getting ready to go, you know, put our --  
6 just getting down to the boat. You know, you want to put all your  
7 stuff away, too, so after we got the deck cleaned up, then staying  
8 busy putting our clothes away, getting ready for a couple month  
9 long season.

10 Q. And so in, in regards to the steel that, that you cleaned up,  
11 do you recall what you guys did with the steel when you cleaned it  
12 up?

13 A. So it was originally consolidated, like stacked because it  
14 was just kind of scattered at first, stacked up by the launcher  
15 there until we moved. And then that steel was actually -- I don't  
16 know if you actually went and got it, but I did put in my  
17 statement that when we were loading pots, you know, the, the  
18 saying goes -- as a fisherman is we should probably float this  
19 out. So it's sitting in the harbor right there next to -- it's by  
20 the dock right there.

21 Q. Okay. So if I understand --

22 A. It just went overboard.

23 Q. So the first -- but in the initial cleanup, it was stacked.  
24 And then when you -- when transited over --

25 A. Yeah.

1 Q. -- to Trident it was dropped?

2 A. As, as we started stacking the boat out, you know, we were  
3 stacking from the, the front of the house forward, and then things  
4 started getting tight. And that one point everyone's like, we're  
5 tripping -- we were tripping over this for however long. Now it's  
6 time to do something with it. It's got to go somewhere so we  
7 could stack more pots up.

8 Q. Okay. And, and now -- so now the vessel's at Trident and you  
9 spent the day loading the pots, as you said. Can you tell us more  
10 about loading the pots and that time between loading all the pots  
11 and getting ready for departure?

12 A. You know, it was a slow go because it, it wasn't just like  
13 load pots, let's go. Like I said, you know, I, I wasn't really  
14 made aware of all this -- of all, all the work that really needed  
15 to be done on all these pots. So we were, you know, tying shots  
16 of line. It's pretty basic still, but to the extent we were  
17 rigging over all the pots to do cod like triggers in all of them.  
18 So, you know, we have a loader.

19 We'd stack 15, 20 pots by the boat, and then we'd sit there  
20 and zip tie the triggers in, you know, pretty basic stuff, and  
21 then swing those over, and then we'd get another 15. So it was a  
22 -- definite process, you know. Tedious, took quite some time to  
23 actually load the whole boat up. I don't think the boat was  
24 actually -- I think it was after Dean finally showed up that we  
25 finally got the last of the pots loaded.

1 Q. And just for clarity for -- to, to help educate us, so you  
2 said the -- loading the triggers into the pot, can you describe  
3 what those are and, and, and how they're inserted into the pots?

4 A. What, what, the, the triggers?

5 Q. The triggers.

6 CDR DENNY: The triggers.

7 THE WITNESS: Oh, the, the triggers are basically -- it's a  
8 way for the fish, cod fish to actually swim in and (indiscernible)  
9 their face like this. So the cod will come into that final  
10 pattern there when they open up. And as soon as they're in the  
11 pot, they close back down and the cod can't get back out. It's a  
12 fight to get back up.

13 BY CAPT CALLAGHAN:

14 Q. Okay. Thank you. So it's, it's something that's put in just  
15 for cod fishing or --

16 A. Yeah.

17 Q. -- is it left in all --

18 A. Unless you're 100 percent full time cod boat, they get pulled  
19 out and put in. If, if you don't have a gear there -- and there  
20 are some boats that have enough gear where they have their cod  
21 gear set aside and then their (indiscernible) gear.

22 Q. Okay. Thank you. And as far as loading all the pots, do you  
23 remember how many pots were loaded?

24 A. No, I kept asking Art how many we were putting on because it  
25 had gotten a little out of hand where I was like thinking we had a

1 little too many on, but I'm hired from here down. Not there to  
2 ask a lot of questions about that. And not being on the boat  
3 ever, you know, what's not normal to me might be normal to someone  
4 that worked on there (indiscernible), you know what I mean? So I  
5 would have to look at -- I think there's some pictures on it, but,  
6 but if I looked at it, I was a -- they swung pretty much every pot  
7 on there. And I can give you a pretty close number, and I think  
8 it was pushing up over 200 a little ways.

9 Q. Okay. Thank you. And so can you -- and it -- and in terms  
10 of how the pots were being stacked, can you describe for us when  
11 the pots were placed on boat and what configuration they were  
12 being stacked in?

13 A. So basically any space on deck was filled, you know, and  
14 that's actually -- to, to go back to what you asked me about the  
15 other aft house boat I worked on, this was different to me because  
16 once you stack this boat out, there's no alleyway. And like, on  
17 the *Wizard*, for instance, they have a way to actually come in to  
18 the gear room into the house. This boat, once you stacked it out,  
19 you had to climb up over the stack to even get back to the house.  
20 There was no, you know, pass through.

21 So every -- from port to starboard, every spot was filled  
22 there. And then we would be four high -- I believe it was four  
23 high port side all the way to the starboard side, but on the  
24 starboard side, they were only three high. And that would be  
25 enough of a visual for whoever was operating the boat could

1 actually see out the wheelhouse window to see, you know, what was  
2 ahead. There was -- we also stacked them under the shelter deck.  
3 You know, we'd have to push -- because we pushed them under there,  
4 stack them out under there. I mean, literally like every square  
5 inch of that deck was full of pots. And then we would put them on  
6 top of the wave wall -- or not wave wall, sorry, on top of the  
7 shelter deck, four high on there and then wrapped in an L shape up  
8 towards the, the tree up front there.

9 Q. And two, two follow-up questions before I, I move on from  
10 this line. So for that stack that's up above on top of that, that  
11 foredeck there, in comparison to your previous work on similar  
12 vessel, is -- was that a normal configuration, to add those pots,  
13 extra pots up on that forward deck area?

14 A. I, I had seen that before. Personally, I mean, I hadn't done  
15 it before personally, but I'd definitely seen it done before.

16 Q. Okay. Lieutenant McPhillips, can you pull up Exhibit 093  
17 please? And can you just -- so you referred to alleyways before.  
18 So this is not a picture of -- from the *Scandies Rose* itself, but  
19 in terms of an alley within a stack, is this what you were  
20 referring to?

21 A. Yeah, yes, sir.

22 Q. And so the difference between this and what the configuration  
23 that you loaded on the *Scandies*, am I correct in saying that the  
24 difference would be that that in the middle there would be another  
25 pot stacked vertically?

1 A Yes. Yes, sir.

2 Q. Okay. Thank you, Lieutenant McPhillips. You can bring that  
3 down. Okay. And as far as the stacks, how are the stacks  
4 secured?

5 A. Oh, we used pot ties, standard. Everything's tied with pot  
6 ties. And then, you know, you have your, your, your ties that are  
7 for (indiscernible) and then port and starboard. So pitch and  
8 roll. And then after that's all tied up like that, we put the  
9 chains on them and we chained every rope before we left.

10 Q. And once, once you had the, the pots stacked up, the -- what  
11 was the -- what, what kind of -- what role did you have after the  
12 pots were stacked up and, and what took place onboard between the  
13 time you had the pots all stacked up and then --

14 A. Well --

15 Q. -- prior to departure?

16 A. Well, the -- after -- of course, after we get the pots  
17 stacked, you know, we're, we're coming up and then we got the  
18 table. So then the table goes up on top as well, our sorting  
19 table. And that goes on top of the whole stack. And then this  
20 was a little goofy to me, but we took bait after we had stacked  
21 the whole boat up and just barely enough room to sneak a pallet of  
22 bait down in -- by the launcher there and we loaded bait after  
23 that. That was our next task, loading bait. And we took about  
24 15,000 pounds of bait that night.

25 Q. Okay. So you mentioned the sorting table loading on top of



1 the stack. So in, in reference to the, the stack itself, where --  
2 can you tell us where on, on the stack had --

3 A. Forward of the house. And, and the reason for that is, you  
4 know, you start setting gear, and then you work your way back kind  
5 of -- you start by making yourself a little work area at that  
6 point. You know, you make some room for -- things are a little  
7 tight at first when you start to -- initially start setting. Then  
8 you work your way back, and once you stair-step back, you pull the  
9 table off and put it on deck and secure it on deck.

10 Q. Okay. And, and was that normal from other configurations  
11 you've seen to load the, the sorting table on top --

12 A. It's whatever --

13 Q. -- pot stack?

14 A. -- floats your boat. Some, some will put it on top. Some  
15 will put it -- I've seen it on top of the wheelhouse itself. I've  
16 seen it on the, the shelter deck. But -- yeah, well -- and I've  
17 also seen it under the shelter deck was what I worked on actually  
18 would push it back and have it under the shelter deck right there.

19 Q. Lieutenant McPhillips, can you bring up Exhibit 014 please?  
20 Well, this is just a series of photos of the *Scandies Rose*. So  
21 in, in terms of where the, where the sorting table is located on  
22 here, can you identify it in this picture at all?

23 A. Yes, and that (indiscernible) wheelhouse, like I was saying.  
24 I can see it right now on top of that (indiscernible) here.

25 Q. So once that --

1 A. About -- it's about seven windows over.

2 Q. And once that's, once that's loaded, is there any obstruction  
3 be -- from there to the forward end of the stack from the bridge?

4 A. What, what do you, what do you mean by that? Sorry.

5 Q. So looking from the wheelhouse, does that -- does having that  
6 sorting --

7 A. Obstruct view?

8 Q. -- table there obstruct the view of the forward end of --

9 A. It would.

10 Q. -- the stack?

11 A. Yeah.

12 Q. Okay. So now that the, the stack is secured, can you tell us  
13 what else took place onboard before getting underway?

14 A. Like I said, bait -- we loaded bait. They were throwing a  
15 chain on every row. And we were standing by and just kind of  
16 waiting. You know, trying to make my memory serve me correctly,  
17 but, you know, we waited for a little while. I think someone  
18 brought some pizza down. We looked -- it was such a boat show. I  
19 don't want to use, I don't want to use the S word, but if you  
20 follow me there, that we were -- food was coming on, pots were  
21 coming on. There wasn't like a method of the madness. It was  
22 just pretty much madness. You know, we got to go. Time to go.  
23 So anything we could do, everything was just swinging on.

24 (Indiscernible) some food and then pots and then food and then  
25 pots and more pots and then bait, you know, after we were done

1 with the pots.

2 Q. And, and so in terms of bait, where was the bait being  
3 loaded?

4 A. Up forward, in the forward freezer there.

5 Q. And do you recall how much bait was taken onboard?

6 A. 15,000 pounds is what we took from the cannery there. And I  
7 believe it actually came to 15 from the *Ocean Beauty*, I believe,  
8 and was brought around with the forklifts to -- we were at the  
9 Trident dock, so they brought it around to us.

10 Q. Okay. And in terms of -- you said, you said things were kind  
11 of -- seemed to be in a rush to, to keep going. Any explanation  
12 of why it -- things, things might be hurried? Was there -- from,  
13 from that point, was there an understood schedule or timeframe  
14 that the -- to get underway?

15 A. Well, I knew we were going to fish cod, January 1, right, but  
16 it was just a little, a little -- it was a little off to me just  
17 because, you know, generally doing gear work, getting stuff ready  
18 to go, you know, the sun goes down and, and we don't have any  
19 lights out there and hard to see. It's almost like counter-  
20 productive to try and keep tying triggers. And when you're off in  
21 the shadows, you can't see anything. I got a headlamp on, but  
22 definitely not as productive. So there was a few days there  
23 getting ready that we went over 20 hours in just doing gear work,  
24 which was not normal to me, at least on any boat I've ever worked  
25 on. You know, usually the guys kind of sit down and have some

1 dinner and BS for a little bit.

2 But, you know, at that time, I just thought, you know, we  
3 need to get out of town. We're ready to get out of town. And I,  
4 I didn't really put it together until, of course, after this all  
5 happened, why, why we were in a hurry to leave so fast. And, you  
6 know, the thing that came up to me was the prior year, all, all  
7 the over 60 -- all over -- the over -- 60 and over boats that were  
8 fishing last year or the year prior to this, their season closed  
9 on the 6th of January. They only had enough time to get their  
10 gear out, in the water, barely make a trip, and then they had to  
11 stack out again and go to town. So by schedule, leaving on the  
12 30th, you know, we got some days of travel. And by the time we  
13 even get our gear in the water, that's if we don't have any  
14 weather (indiscernible), we might not even make a trip. You know,  
15 it seems like it's possible.

16 Q. Okay. And, Lieutenant McPhillips, can you pull up Exhibit  
17 014 again, please, and put up page 19? Mr. Lawler, does this  
18 picture look familiar at all?

19 A. Yes, sir.

20 Q. And --

21 A. That -- in fact, in fact, to reiterate, I had my headlamp on  
22 because we were rigging pots still.

23 Q. And so is that --

24 A. It took all night.

25 Q. Is that --

1 A. What's that?

2 Q. -- you in the picture?

3 A. Yes, sir.

4 Q. And, Lieutenant McPhillips, can you scroll up to page 18  
5 please? Mr. Lawler, can you tell us where this -- kind of give us  
6 some sense of reference for where this picture was taken and, and  
7 kind of what we're looking at here in this?

8 A. Okay. So my right hand is -- if I can see it. Yeah, my  
9 right hand is facing toward the bow. Those pots there on my right  
10 hand there are up against the tree there. On my left, those are  
11 the pots that head back to the superstructure. And so where my  
12 head is is the, the shelter deck. The pots are stacked on the  
13 shelter deck there, so that goes right down, and below that  
14 shelter deck, on my right hand side, the shelter down, that goes  
15 into the forepeak there where all the bait is stored as well.

16 Q. So, Mr. Lawler, there, there is a laser pointer up there if  
17 it would make it easier to kind of highlight the areas, but so,  
18 understanding that your right arm is then on the forward, forward  
19 side of the stacks and your, your left hand being on the aft side  
20 of the stacks, is that correct?

21 A. Yeah, and on the, the right side there, those don't -- that  
22 doesn't go all the way down to the deck. That just stops on the,  
23 on the shelter -- under the shelter deck right there. That's  
24 actually (indiscernible) right here and then comes across the beam  
25 of the boat.

1 Q. And, and what other access point do you have to get to that  
2 area where you are?

3 A. That's it. And that, that was the -- I mean, every boat has  
4 their own way, but that was the goofiest thing to me, having to --  
5 you know, something goes bad, which we didn't have to deal with  
6 that aspect of it, but I just thought in the back of my head, how  
7 do you get back and forth into the house? You know, there's no,  
8 no, no real access. Yes, to answer your question, yes, that's how  
9 you go to the wheelhouse. You got to climb up and over.

10 Q. Okay. Thank you. And, Mr. McPhillips, can you go to page 20  
11 of the same exhibit please? And so this is a -- this shows kind  
12 of a picture of, of some of the pots and the mechanisms to secure.  
13 Does this look accurate or -- and, and how would you describe this  
14 in comparison to others as far as how the -- how, how well the  
15 pots may have been secured compared to your other experiences?

16 A. I mean, that's pretty standard. So you got obviously a chain  
17 that runs through it. And then right here is your chain binder.  
18 And then right here, there's a pot tie on that chain binder to  
19 keep the handle of the chain binder from kicking loose and letting  
20 slack on that chain.

21 Q. Okay. And then, Lieutenant McPhillips, could you just --  
22 page 2, please, on the same exhibit. So, Mr. Lawler, does this  
23 picture look like an, an accurate representation of the time the  
24 vessel was loading there --

25 A. Yes.

1 Q. -- prior to the voyage? And if, if you would, if you could  
2 use the laser pointer and, and I can barely make it out, but if  
3 you can make out the sorting table on the back end of the stack,  
4 can you highlight that for us please?

5 A. I can.

6 Q. Great. Okay. Thank you. Lieutenant McPhillips, you can  
7 pull that down please. And were all the pots the, the same pots?

8 A. So as far as I -- my recollection goes, there were some that  
9 were eight-by-eights, and there were some that were eight-by-  
10 sevens. And there was the -- I, I can't recall completely, but  
11 there was a weird way that the deck had to go on. Because I  
12 remember -- if I recall right, we had a few that were just  
13 oddballs that had to be on the deck and then ones that would stack  
14 them all together up on top the stack.

15 Q. Do you recall --

16 A. And you can have an off side, you know, an offshoot side.  
17 You want to have a flat top, you know, your whole deck's stacked  
18 that way. Everything stacks up on top without hanging out, so --

19 Q. Okay. Do you recall if any of the pots were weighed prior to  
20 loading?

21 A. Not there, no, sir.

22 Q. Okay. And, at any times have there been any discussion about  
23 tarping the pots on the *Scandies Rose* at all?

24 A. About, about what now?

25 Q. About tarping the pots on the *Scandies Rose*?

1 A. Yeah, actually there was. So the boat that I referenced  
2 earlier that I had the opportunity to go on and I had to turn that  
3 down due to already committing to Gary, I have a friend that was  
4 on there, and he sent me a picture. They were over in King Cove  
5 the day that we were leaving, and they had tarped their whole  
6 stack off. And I showed that to Gary in the wheelhouse, and he  
7 was like -- I can't remember his exact words he used. It's not --  
8 we don't need that, you know, blah, blah, blah. I was like, all  
9 right. I'm just showing you what they're dealing with over in  
10 King Cove at the time, you know, heavy freezing spray over there.  
11 And at the same time, we heard the forecast on the radio too. But  
12 we never -- just opted not to, I guess. So --

13 Q. And you -- so you referenced the forecast you heard on the  
14 radio. And, and what kind of forecast were you hearing at that  
15 time?

16 A. I, I couldn't quote it verbatim, but it was enough of a  
17 shitty forecast to -- I didn't think we were going to leave that  
18 night. You know, I was waiting for the call, you know. We had  
19 been working our asses off getting the boat ready, and then we  
20 heard the weather forecast, and I'm thinking, oh, we're -- the  
21 boys are going to have a bar night. We're going to go into town  
22 and get some beers because we're definitely not leaving in that.

23 And, you know, we waited I think it was six -- no, six, seven  
24 -- it was a few hours just to wait on the tide to go out Whale's  
25 Pass instead to have a little cover on the way out. And, you



1 know, and the, the words, I still remember them, were we're going  
2 to run into some shit, and that's shit's be -- going to become a  
3 lot of shit. But make sure everything's tied down good. That was  
4 it.

5 Q. And to -- at, at any point was there any discussion, any  
6 further discussion on the weather about any -- potentially  
7 delaying departure for the weather?

8 A. (No audible response.)

9 Q. I'm sorry, I didn't, I didn't catch that.

10 A. No, sir.

11 Q. Okay. And had there been any concern expressed by any of the  
12 crew members regarding the weather leading up to getting underway?

13 A. I mean, it was always jokes until something bad happens,  
14 right. So always going to joke, like, oh, it's going to be nasty  
15 out. Just prepare, boys. It's always funny until something  
16 happens.

17 Q. Is it, is it different -- so would you say that approach, was  
18 that any different than any other experiences you've had on a  
19 fishing vessel or is it kind of a similar attitude towards the  
20 weather?

21 A. No. If I put it this way, you know, I've had people ask me,  
22 why didn't you say something, like, you know, suggest that maybe  
23 we shouldn't leave, you know? And I, I always laugh about that.  
24 I'm like, that's not what you're hired for. You're hired as, you  
25 know, like I said, from the neck down. And you get that

1 reputation as being that guy that didn't have, you know, the, the  
2 balls, if you will, I guess, to go. That sticks with you, and  
3 good luck getting a job on another boat. So no one's, no one's  
4 ever brought that up. You don't, you don't do that.

5 Q. Okay. So with regards to further procedures before getting  
6 underway, were any -- was the crew brought together at any point  
7 prior to getting underway as, as a whole crew?

8 A. Yeah, so since -- we were waiting on the weather for -- not  
9 waiting on the weather. If we were waiting on the weather, we  
10 would have waited a couple days, but since we were waiting on tide  
11 throughout Whale Pass instead of being exposed completely on the  
12 first little part of our departure, we utilized that time to do --  
13 to run through all the safety equipment. And that was, you know,  
14 a little while before we departed.

15 Q. And so can you take us through that, what safety equipment  
16 you ran through and to what extent?

17 A. We got survival suits out. Gary had Dean put one on. Sorry.  
18 We did -- we made a mock mayday call. He had David do that, and  
19 it was kind of a -- then he had me do it because it wasn't being  
20 done the way he wanted it to be done, so I did it for him. And  
21 then went outside, looked at the (indiscernible), looked at the  
22 rafts. It was just an eerie night. There's, there's all sorts of  
23 like superstitious things that we have for this, but like even one  
24 -- that, that key point there where we were going through the  
25 safety drills, you know, Gary made this comment about how you

1 don't leave the boat, the boat leaves you. And there's just all  
2 these like references to like bad news. And I knew we were  
3 leaving into a storm, and it just didn't feel right. Nothing,  
4 nothing about it felt right.

5 Q. So to follow up on regards to -- so through you -- going  
6 through the safety items, would you refer to that as safety drills  
7 that are normal, standard procedures?

8 A. As far as like EPIRB and like rafts, yeah, generally  
9 speaking, yeah. And, you know, I, I think, for me, I've been  
10 around the industry long enough to where I make myself familiar  
11 to, you know, be proactively like know where things are because  
12 you never know when something's going to happen. But there's been  
13 boats that were kind of -- where it's just kind of that's there,  
14 that's there, that's there. But since we had time, we really went  
15 into depth about like going and looking at everything. So we were  
16 waiting on the tide, like I said.

17 Q. And so, during the drills, you had mentioned that you had  
18 taken the immersion suits out and that Captain Cobban had had  
19 Mr. Gribble put one on. Did anyone else on the crew don an  
20 immersion suit during those drills?

21 A. No, sir.

22 Q. So, in your previous experience, is that standard practice  
23 during the drills for different crew members to, to put it on? Is  
24 it usually all crew members or just a random selection?

25 A. Usually, like, if someone does put one on, generally it's the

1 new guy that just showed up, you know, end of the season. But I  
2 guess I always assumed that, whatever, being the new guy on the  
3 boat sometimes -- well, I mean, I was new there too, but I didn't  
4 put one on. But new -- yeah, usually I, I don't think -- I can't  
5 even count on one hand how many times I've been in a wheelhouse  
6 where the whole crew puts them on as the training precisely.

7 Q. Okay.

8 A. And then to go back to the EPIRB, that's for your  
9 (indiscernible), we did bring the EPIRB into the wheelhouse, and  
10 this is a thing I do remember which is Gary hit the button on it,  
11 and he -- I remember, he's like, whoops, I shouldn't have done  
12 that, because I'll call you guys on accident. But I never saw the  
13 lights flash on when it happened. We were in a dark wheelhouse.  
14 I mean, it may or may not have, but I just always -- it sears in  
15 my brain, like maybe that thing was bad when we left, and maybe  
16 that's why it didn't go off.

17 Q. Okay. And did you happen to witness Captain Cobban after  
18 testing the EPIRB there, what do you -- what --

19 A. Well, it was --

20 Q. -- you did with the EPIRB after?

21 A. Like he didn't mean to, and he thought he did, but I didn't  
22 see any indication that it ever started sending out a signal. And  
23 then it just went right back to the, the home on the stern there.

24 Q. Okay. So with regards to its home, can you describe to us  
25 where, where the EPIRB was located?

1 A. Yeah, it was, it was on the stern on the, the handrail there  
2 behind the starboard side, I believe.

3 Q. Okay. So --

4 A. Down, down the stairs I believe it was. I'm trying to  
5 remember right, and so -- I only saw it that one quick moment, but  
6 I'm -- if my memory serves me correctly, it was, yeah, just, just  
7 behind the, the starboard side.

8 Q. Lieutenant McPhillips, can you bring up Exhibit 014, please,  
9 page 9? So looking at this picture of the deck there --

10 A. That's on the port side there then, so I, I was off on that.  
11 You can see it right there.

12 Q. Okay. Thank you. And is, and is that the area that, that  
13 you recall it --

14 A. Now, now, yeah, but like I said, I only saw it for a split  
15 second that night, so -- now that you brought that picture up, it  
16 flashes back in my head now.

17 Q. Okay. So from the time you guys ran the drills, if we can  
18 ask -- if I can ask you just kind of take us through kind of the  
19 conversations, the, the attitude of the crew on -- you know,  
20 during that time and then kind of, you know, in perhaps leading up  
21 to getting underway?

22 A. You mean just how everyone was the whole time loading the  
23 boat and everything? I mean, like I said, I didn't know everyone  
24 that well, so it was a different -- we were starting to get know  
25 every -- you know, each other. And Art spent a lot of time going

1 in and out of the engine room doing his kind of thing and flooding  
2 tanks, checking oil. Brock was constantly welding on pots, so  
3 he's just kind of welding, welding. He was fixing, welding pots  
4 all the time. So it was pretty much just myself, Seth, Dillon  
5 Gamby and -- yeah, the three of us, yeah, and David rigging pots  
6 the whole time.

7       There was no animosity amongst anybody. Everyone got along  
8 good. Actually, at one point, I think I told (indiscernible) I  
9 felt like everyone was jiving really well together and looking  
10 forward to the season. You know, it was -- you, you get on some  
11 boats where people are just butting heads all the time and just  
12 not a fun season. You got to get through it. And this, this,  
13 this was different. It was easy to, to mesh.

14 Q.   Okay. So now that things are prepped and you guys are set to  
15 get underway, can you tell us approximately what time you guys  
16 departed and, and who might have been on the bridge and kind of  
17 take us through the watch vigil from that point?

18 A.   Well, everyone (indiscernible) about the crew, so Dean wasn't  
19 there yet when I referenced that. It was Dillon Gamby. Dillon  
20 had quit -- yeah, I guess he had -- from what I heard, he told  
21 Gary he was getting to be old and he thought he was going to be, I  
22 guess, a risk to the rest of the crew for not having his head in  
23 the game. But then Art also told me that I was moving too fast,  
24 and he felt like he was not in his element.

25       I -- when we were loading pots, I had -- he was giving me the

1 signal to go down one day, and I couldn't see him over there, and  
2 I went down and knocked him on his head. And I could see him, you  
3 know, it, it hurt him, but I could barely see him because I just  
4 caught it, and I stopped, and I just told him, I go, what are you  
5 doing? You know, you, you know, you told me to go down. I can't  
6 see you over there. He, he knew it was his fault, and after that,  
7 he never came back to the boat. So I think that was kind of his  
8 reasoning there from what I gathered. And then Dean came on the  
9 boat. So now we're back to where the crew actually is now. So  
10 Dillon did not go with us, just to make that clear.

11 Q. Okay. Thank you. So now can you take us through kind of the  
12 steps getting underway and kind of the watch schedule once you --  
13 you know, for departure?

14 A. So I untied the bow with Brock. I think Dean was up there  
15 with us, I'm pretty sure. I can't remember that one though. And  
16 a few other guys untied the stern, bailed out of the dock, started  
17 heading out the channel. And then Brock and I turned the bow  
18 heater on to get that going. Or actually, no, we, we told Art to  
19 turn it on, and he turned it on. We made sure it was actually  
20 putting out heat to melt the snow off that was on the deck up  
21 there. Stowed our lines, dogged the door, made sure that  
22 everything was watertight up front and secure, never made it back  
23 to the stern. And yeah, we rounded the corner, and we honked the  
24 horn at a house on the way out. Here we go. We're, we're going  
25 crabbing -- or we're going cod fishing first, unfortunately, but

1 going crabbing after that.

2 Q. Okay. And, and so who had -- who took the first, who took  
3 the first watch after departure?

4 A. (Indiscernible).

5 Q. What was that?

6 A. I, I don't know if I can -- I'd, I'd be -- I wouldn't be  
7 giving you an accurate answer if I told you that right now because  
8 I, I would be a -- just throwing the dice on that. I don't know  
9 who started first.

10 Q. Okay. Do you remember --

11 A. Well, I mean, Gary took us out a ways until we got a course  
12 made, of course.

13 Q. Do you remember what timeframes that you stood watch  
14 throughout the voyage?

15 A. Yeah, I can't remember all the times, no. I know we were  
16 taking an hour a piece for a while there.

17 Q. Do you remember who you would take the watch from or who  
18 would --

19 A. I would take it from David, and then I would pass it to Dean,  
20 and Dean would pass it to Gary.

21 Q. And do you recall how many watches you had stood during the  
22 transit?

23 A. I believe two or three. Three. I think three.

24 Q. And can you take us through kind of, kind of your -- the  
25 operation? So once you're underway, kind of making your way out,



1 you know, your observations from that point?

2 A. I mean, everything was running smooth it seemed like. Then  
3 it was taking my watch, listening to the radio, channel 16 for you  
4 folks and put the weather channel once in a while. It's just the  
5 way I just do it. I, I own and operate a (indiscernible) of A  
6 boats. I'm always curious about the weather as a boat owner also.  
7 And just paying attention to the radar, making sure there's no  
8 ships out there. It was pretty basic because I -- it's just what  
9 I've been doing for however many years now.

10 You know, at, at one point, we had a little bit of the list  
11 out, out of the gate, but I just chalked that up to, to, you know,  
12 needing to transfer some fuel. And I think, on my next watch, I  
13 actually think I put that in my statement on the, on the next  
14 watch it had -- was no longer there. And I, I believe Art  
15 transferred some fuel. It wasn't enough to be concerned about  
16 though. I figured he was downstairs doing his thing. But like I  
17 said, running boats before, I always have that in the back of my  
18 head. A little bit of list, what's going on? Making sure, you  
19 know, you want to be trim. It's a lot safer that way.

20 Q. And when you took over from David, any -- anything pass from  
21 David to you in taking over the watch?

22 A. So, so the first bit wasn't bad because, you know, I mean, it  
23 was definitely shitty out, but we, we had a little bit of, of  
24 cover still. So that first watch, there was no ice accumulation  
25 at all, no nothing. And I'm -- I said two or three watches, so

1 that might have been my second night, it was still okay. And on  
2 my third was when I noticed a little bit of ice buildup, but  
3 nothing I would ever be concerned about.

4 Q. Okay.

5 A. It's like, I remember my comment to Dean when he took his  
6 watch was I looked at the chains because it -- there was a little  
7 bit on the bow, like on the crab pots, which is pretty controlled,  
8 but likes to gather right there. And the crab pots are not really  
9 anything, you know, a little sprinkle. But then the chains have  
10 enough ice that it kind of was dropping them, and I was telling  
11 Dean, you know, that's going to be a pain in the ass to get those  
12 off later because it's pulling against every time you get some  
13 slack on the line or it's just going to take it out again.

14 Q. Okay. Had, had you had any conversations with Captain Cobban  
15 between the time -- you know, during that your, your watch is or,  
16 you know, during that transit time?

17 A. No, the only time I really talked to Captain Cobban,  
18 honestly, from the time we left until the time everything went bad  
19 was he asked me in the wheelhouse before we left if I had ever sat  
20 in the seat hauling gear. And I said I hadn't on a boat that  
21 size. And he showed interest that maybe I could take over for --  
22 while he -- like if he wanted to keep a 24 hour rotation going or  
23 something, maybe I could sit up there, and I said I wouldn't be  
24 opposed to that. That's pretty much our only conversation we had  
25 after we left.

1 Q. Okay.

2 A. Well, I mean, I -- we had words when everything just went  
3 bad, but that's for later.

4 Q. And, and as far as when you were on the bridge, was there any  
5 outlying expectations for what duties you should be -- or that  
6 were to be -- performed while you were on watch?

7 A. You mean as far as like if there was a problem, like to wake  
8 someone up or --

9 Q. Any -- yeah, any -- like were there particular times or  
10 expectations for making rounds or, you know, at what point to  
11 notify the captain?

12 A. I mean, yeah, if you're listing hard over or something,  
13 clearly you're going to, you know, wake the captain up. Or if  
14 you're accumulating a lot of ice, you know, what should we do  
15 about -- it's looking like it's getting a little bad or, you know,  
16 if the weather -- for me, personally, like I -- a lot of guys will  
17 wake the captain up. I don't much, like let the guy get his  
18 sleep. So a lot of times, guys will wake the captain up if the  
19 weather just starts coming from a different direction and you just  
20 got a shitty course and you want to turn into it a little bit to  
21 have it ride a little nicer.

22 I always took it upon myself to know where we're going,  
23 adjust a little bit. That way old cappy isn't getting tossed  
24 around in his bunk. You know, that's about it. I mean, a lot of  
25 guys will wake him up for that, but other than that, no. No real

1 expectations other than going to check on the engine room. That  
2 -- and that's actually on most boats, and it was on this one too.  
3 Every half hour, I'd take a walk downstairs and, you know, walk to  
4 the engine room. Make sure, obviously, we're not taking water  
5 through the packing or anything like that, or just anywhere, crab  
6 pumps.

7 Q. Okay. Mr. Lawler, I know we're at, at a scheduled break  
8 time. Are you good to take a few minute recess and then --

9 A. Yeah.

10 Q. -- come back and resume?

11 A. It's your show.

12 CAPT CALLAGHAN: So let's, let's go ahead and take a -- it  
13 says it's scheduled for 15. If you're okay, I'd like to kind of  
14 just make it a five-minute recess and, and then we'll get -- this  
15 way we can get some more valuable time from you following the  
16 recess. So the time now is 1515. This hearing will go into a  
17 five-minute recess and reconvene at 1520.

18 (Off the record at 3:15 p.m.)

19 (On the record at 3:21 p.m.)

20 CAPT CALLAGHAN: Okay. The time is now 1521. This hearing  
21 is now back in session.

22 BY CAPT CALLAGHAN:

23 Q. Mr. Lawler, so I appreciate everything so far, and really  
24 just -- so, at this point, I've kind of asked a lot of questions  
25 to get -- kind of get us to the voyage itself. And, and now what

1 I'd like to do is ask you to kind of take us through your  
2 experience. Take us through your account of the events from the  
3 time the, the voyage began up until the mayday call. And I --  
4 we'll -- I'll be happy to sit here and take notes as, as you kind  
5 of replay the events for us please.

6 A. So, so starting from when now? Like from when we left the  
7 harbor?

8 Q. Yes, please.

9 A. Okay. So it was the 30th. We took out of the harbor. Like  
10 I said, we honked the horn on the way out. We, we were all  
11 exhausted at this point. We'd been working three to four days  
12 just on gear work, sleeping a couple hours a day, not even fishing  
13 yet. And usually that's kind of something -- stuff that you do  
14 when you're actually fishing. But excited to finally get some  
15 seas underway, if you will. It really wasn't a whole lot going  
16 on. A lot of movie watching, wheel watching, wheel watching,  
17 wheel watching, pretty standard. You know, there -- really --  
18 uneventful up until it wasn't uneventful. I mean, when I was on  
19 watch, the waves were getting pretty big on my last watch, but the  
20 boat was just kind of crushing through them.

21 I guess I'll just fast forward because there was really  
22 nothing that particularly happen -- happening on the boat.  
23 Everything seemed to be fine. I laid my bunk, I guess it would  
24 have been the night of the 31st of what it would have been, and  
25 picked a movie on. I remember, remember it like it's yesterday.

1 It was *Ford v Ferrari*, watching that movie. Dean actually gave it  
2 to me on his computer. But just sitting there watching a movie  
3 one night, and Dean comes in the room, hops up in his bunk, and he  
4 was laying there for a little bit, bull shitting. I'm just about  
5 to nod off and we, we were never like listing a little bit at all.  
6 It was trim. Good to go.

7 But then all the sudden, I rolled into my bunk, and just this  
8 sheer terror comes over me. Just I knew something was wrong. So  
9 I, I ran upstairs and I look at Gary and said what, what the  
10 fuck's going on? What's going on? And he goes, I don't know  
11 what's going on. I said, I think we're fucking sinking. No  
12 fucking shit we're sinking. Then I, then I look out the, the  
13 windows; they're iced over a little bit, but not a lot. And I'm  
14 just trying to figure out, how did it go from nothing to like the  
15 boat's literally like leaving us now. And I yelled out to Dean, I  
16 go, Dean, wake the fuck up, we're fucking sinking. And I can hear  
17 him down there yelling at me, what? We're fucking sinking.

18 So he comes running up the stairs, and it's just -- I, I  
19 don't know how to like tell you guys exactly. Just too much like  
20 adrenaline going on. I, I don't -- like it was just pumping. I  
21 -- the boat's rolling over. I'm trying to get the survival suit  
22 on. No general alarm was going off.

23 I'm trying to like get to this part, but -- could we break  
24 for a little bit please?

25 CAPT CALLAGHAN: The time is now 15 -- the time is now 1525.

1 This hearing's going to go into a short recess.

2 (Off the record at 3:25 p.m.)

3 (On the record at 3:32 p.m.)

4 CAPT CALLAGHAN: Okay. The time is 1533. This hearing is  
5 back in session.

6 BY CAPT CALLAGHAN:

7 Q. So, Mr. Lawler, kind of got to the point where you had been  
8 woken up and, and run up to the bridge. So in the immediate  
9 moment when you got to the bridge, can you tell us who was up  
10 there when you got up there?

11 A. It was, it was just Gary. He was the only one up there.  
12 I'll -- going backwards, you know, at first, I thought we were  
13 turning around. That's what it felt like. I got up there, and it  
14 was just Gary. He was on the sat phone, satellite phone with  
15 somebody, because I heard he had just queued it. You know, it's  
16 an unmistakable sound. I mean, if you've been on a boat, you know  
17 what a sat phone sounds like. He was the only one up there.

18 Q. And, and you said you, you, you mentioned waking up or, or  
19 yelling down that -- to Dean at some point. Can, can you -- do  
20 you remember how long, you know, how long it took for him to kind  
21 of get up to the bridge?

22 A. Say that again.

23 Q. From the time you got up there until the time you notified  
24 Mr. Gribble.

25 A. Oh, it was pretty much immediate. I mean, I looked at Gary

1 and I -- just that, that -- I don't know how to explain it to  
2 anybody. Just that gut wrench that not -- this is not good. Like  
3 this is -- there's no coming back from this. Like we are sinking  
4 now. And I just kept yelling, just started yelling because  
5 there's no alarm going off.

6 Q. And --

7 A. Oh, Dean was up there within seconds like -- because it  
8 shocked him, too, because he felt the, the boat go too. But I  
9 think he kind of felt we were turning around too. But I -- just  
10 something clicked in my head that it wasn't right.

11 Q. And was there any, was there any notification to the rest of  
12 the crew, or did the rest of the crew kind of get, get -- make  
13 their way to the bridge at any point?

14 A. Can -- sorry. I'm, I'm having a hard time just concentrating  
15 right now.

16 Q. For, for the rest of the crew, did the rest of the crew make  
17 it up to the bridge?

18 A. I don't remember.

19 Q. From --

20 A. There was, there was people there. Like voices were there,  
21 but I always tell everything that it's compared to like a -- if  
22 you're familiar with the movie *Saving Private Ryan*, but when he  
23 was on the beach at Normandy, and there's a shell shock, and it's  
24 just, just white noise all around you. Just pure panic. It --  
25 there were -- people were there. I couldn't tell you who was who,



1 was who.

2 Q. Okay. And, and you said you started putting on your  
3 immersion suit at some point?

4 A. Yeah, I got -- so when I got -- went to the box to get my --  
5 I knew where the box was, but it was dark in the wheelhouse. And  
6 just -- I can't even -- to explain any of the feeling I had is  
7 next to impossible. Like the fumbling around, trying to find the  
8 latches on the box in the dark. But with the amount of adrenaline  
9 that was going threw me, like I was just panicking. I couldn't  
10 even get into the -- where, where the suits were kept. And  
11 finally it just opened for me. I had enough, you know, fumbling  
12 around in there. And I, I -- the only thing I do remember in that  
13 moment was the green suit's the big one, and I need to move fast.  
14 You know, I'm a big boy, too, but I just knew I could get to that  
15 one the quickest, so that's the first one I pulled out and just  
16 muscle, muscle memory. I, I don't, I don't know what it was. It  
17 was just fight or flight.

18 Q. And, and then what, what did, what did you do after that?

19 A. I got my suit on. I was trying to get the zipper. Everyone  
20 -- the people, to be honest, I'm hearing, "oh God, oh God" over  
21 and over and over again, you know, from other people around me.  
22 No one was using their words. It was just sheer panic. Like  
23 there were no conversations of, of anything. I think, at one  
24 point, I did hear Gary say something about like, I don't know what  
25 to do, and I heard someone say, you need to call the Coast Guard

1 now. And as I'm getting my suit on, there's people around me. I  
2 do remember looking up, and the throttles got pulled back on the  
3 boat, and then it just -- it was downhill from there. The boat  
4 started going fast. Like fast. After we lost the, you know,  
5 forward momentum.

6 Q. And, and then once you had your suit on, can -- you know,  
7 what, what did you do right after you got your suit on?

8 A. I got out. And the one thing that's burnt in my brain and I  
9 can't get rid of is I stood over Mr. Rainey and was trying --  
10 because it was -- the pitch of the boat was so steep that I was  
11 hanging on to things and could hear shit crashing off, off the  
12 shelves. And he grabs me by my suit and pulling on me and goes,  
13 help me, Johnny, help me. And I didn't help him. He wasn't even  
14 in his suit, he barely had his feet in, and I just knew I need to  
15 leave the boat and I had to make the decision. I had to go.

16 And that's what I did. I went -- I got up to the port door  
17 barely, like climbing onto things, and went out. And just the  
18 wind hit my face, and I, I just kept telling myself in my head  
19 that there's -- got to get the suit on, got to get outside.  
20 Because I -- there's a history, too, and I worked on a boat called  
21 the *Destination* (indiscernible) before, and I thought about those  
22 guys all the time. I used to always play this back in my head,  
23 how would I get out of a boat. You know, you can't get out of a  
24 boat when it's upside-down and the location -- you know, and your  
25 suit. So I just had to get out.

1 I got out, and I was outside, and I'm still trying to get my  
2 zipper up. I couldn't get my zipper up. The wind's just howling  
3 out there. There's ice all over the rails. And I just remember  
4 hearing Dean yell at me, Johnny. Like loud. I mean, I'm not -- I  
5 don't want to yell at you guys, so -- and I turn around, and he  
6 goes, what are we doing? And I don't know what we're doing.  
7 We're going for a swim, that's all I can say. And I told him I  
8 couldn't get the zipper up, and he started freaking out, trying to  
9 help me. But they just -- I couldn't help him. There was not  
10 enough time to help anybody. Everybody had to help themselves  
11 because it -- everyone's -- everyone froze.

12 Q. Can, can you tell us when, when you made it out the, the port  
13 door there, kind of what happened after you got out -- outside the  
14 door?

15 A. Well, I got out there and -- sorry.

16 Q. It's okay. Take your time.

17 A. Oh God. Honestly, I prayed. That's all I did. I just don't  
18 know what's going to happen. And when Dean finally did come out,  
19 he said, we should probably go up and try to get a raft started.  
20 There's no way we were getting up there. They're out of reach. I  
21 mean, not out of reach, but got hung up in the rigging. I'm just  
22 forward think -- trying to forward think, you know. I was just  
23 expecting to go in the water. That's all. And I was hoping  
24 people were going to follow me out.

25 The recollections I have outside, if that helps you at all,

1 no alarms going off, like I said. And that's why I know Gary made  
2 that mayday call after, after I was outside, because the alarm was  
3 going off on the back of that mayday call. And the alarm didn't  
4 start sounding, finally, until we listed hard enough over. So  
5 what my theory is is that the mains, you know, auxiliary, they  
6 lost engine oil pressure. Then they started running away. The  
7 stacks were blowing black smoke out. And then you just felt the  
8 whole boat shudder, and then the lights out, and all I could hear  
9 was the ocean crashing from this. And you could hear -- you  
10 couldn't really hear anybody inside anymore, which was the eeriest  
11 thing.

12 Then they -- you know, a lot of people were up on the high  
13 side with me, but when the boat listed over, I think they all just  
14 slid right down the floor and smashed into the wall on the other  
15 side. I just, I just, I just don't understand why they just go  
16 out the same door. There was, there was an opportunity for  
17 everyone to get out. It doesn't make any sense. I mean, I, I --  
18 it's been ingrained in my brain for the last -- over a year now.  
19 I sleep about it. I daydream about it. I playback over and over  
20 and over again, try and change it in my head, but I don't know.  
21 If you're going to ask me, I, I don't know.

22 Q. Well, sir, and, and it -- and it's -- and that's fine. It --  
23 so I guess once your -- once -- so you said you were outside. You  
24 can hear the sea and, and the wind.

25 A. Say that again?

1 Q. Once you were out in, in the water, can you, can you tell us  
2 from the time you, you guys were outside and, and --

3 A. Oh, it was quick. From, from the time I left my bunk to the  
4 time I was in the water, I mean, I don't have -- had a watch on  
5 me, but I would have gauged ten minutes, we were in the water.

6 Q. And, and once, once you were in the water, what happened,  
7 what happened next once you were in the water?

8 A. Well, before we went in the water, we didn't know we were  
9 going in the water. And that's -- I reverted back to what I said  
10 prior, you know, don't leave the boat; the boat leaves you.  
11 Because there's been stories like that of you guys finding boats  
12 that are sitting there barely bobbing and no crew to be found. So  
13 I just stood on it as long as I could. I followed the boat  
14 around. Sat on the superstructure, crawled around to the port  
15 side, put my hand in one of the scuppers. And then, by then, the  
16 water was halfway up my shins towards my knees.

17 And I heard Dean say, here, here it comes. So I look up to  
18 the side, fucking wall of water just blew us off. And I had my  
19 ladder blown up -- upside-down like a washing machine. I couldn't  
20 breathe. I was sucking in seawater. And then finally I calmed,  
21 you know, I had to calm myself down. I table it somehow, calm  
22 myself down enough to where I could just loosen my body and just  
23 breathe, like try and catch any pass of air I could get. That's,  
24 that's all I have. I mean, I thought I was dead the whole time.

25 Q. And it -- was there a point after that once you, once you

1 were in the water, could you tell us what happened once you were  
2 in, once you were in the water and, and could, could you see the  
3 boat?

4 A. Yeah, finally, when I kind of got my bearings, I just  
5 remembered seeing the bow of the boat was up. And you could hear  
6 it too. I still hear it. It's just like you think something that  
7 big would -- it wouldn't just get tossed around that hard. I  
8 mean, we had water somewhere that -- it had to have been water  
9 somewhere because it went down so fast. I sat up for a second  
10 (indiscernible) steel. I remember it sounds so stupid, but it was  
11 like the movies, swim away from the boat, and I remember just  
12 looking at the boat, paddling backwards as hard as I could. Then  
13 one second, just like a rocket, just down. Gone. Nothing but  
14 silence, just me, the ocean -- I say the ocean like nicely; it  
15 was, it was very violent that night.

16 Q. And can you tell us -- so from that point, can you tell us  
17 what happened next with -- from that point on?

18 A. With what now?

19 Q. From that point on, can you tell us what happened next?

20 A. I was just accepting -- accepted that I wasn't going home. I  
21 mean, the fact that the raft showed up, I don't know what to think  
22 about that. The raft -- yeah, the raft -- as you know, I heard  
23 Dean yelling at me. I barely had enough room to like look over my  
24 neck, and here he was sitting in a raft, and I just couldn't  
25 believe it. All I could do was swim as hard as I could to it.

1 It's not very easy to swim in those suits, as you know. And I got  
2 in it. At that point, it was nice to know someone else was there.

3 Q. And were -- once you, once you were able to swim to the raft,  
4 were you able to get in the raft?

5 A. Yeah, I got in the raft.

6 Q. Okay. And is -- were you -- so were you in the raft with  
7 Mr. Gribble then?

8 A. Yes, sir.

9 Q. And once you guys were in the raft, could you tell us what  
10 happened from the timeframe you -- when you guys got in the raft?

11 A. A lot of screaming still, like yelling out, hoping there  
12 would be someone else. There was, there was nobody else. We knew  
13 that. We wanted to believe, you know. It's just a waiting game  
14 at that point, hoping somebody was going to come.

15 Q. From -- do you, do you remember how, how -- you can recall,  
16 you know, when, when you first had sign of any -- anyone -- any  
17 aircraft overheard or, or the Coast Guard in the area?

18 A. Say that one more time? I couldn't --

19 Q. Can you recall when -- you know, how long it took before you  
20 heard an aircraft or saw the helicopter overhead?

21 A. It seemed like an eternity, but, you know, time is not  
22 something that really registers right when you're out there in  
23 that type of hell. I -- we, we were able to get to a bag and, and  
24 get some flares out. I thought I'd, you know, wait a little bit.  
25 The EPIRB got to kick the signal off. I don't want to start

1 firing flares off yet. You know, we were able to fire, fire some  
2 flares off. It, it was a -- fired one off, two off, and then  
3 waited. Then three, four, and no one ever came. But the wind was  
4 so violent against that thing, I kept hearing -- I kept thinking I  
5 heard the chopper the whole time. It was just playing games with  
6 my head, the wind just beating that thing.

7       Every time there, there would be a -- a huge wave would roll  
8 through, I don't know how we didn't -- that thing didn't capsize  
9 multiple times. I think just the fact that all the water was  
10 lodged in the bottom of it acted as some sort of stability for it  
11 because it was not friendly. And we, we ran out of flares. We,  
12 we had a flashlight from there. And that's in the report. And  
13 then the light in our raft went out. And Dean, you know, we were  
14 talking to each other for a while, trying to keep spirits up, you  
15 know. We're going to be okay. We're going to -- we knew we  
16 weren't going to be okay.

17       And then I'll never forget that moment when Dean just kind of  
18 stopped talking. And I kept checking him, are you all right? Are  
19 you doing okay? And I wasn't okay, but I just want to make sure  
20 he's okay. And I think now, looking back on it, I didn't realize  
21 how many hours we were out there, but becoming hypothermic, I  
22 guess that's kind of what happens to you. You stop being  
23 talkative, get ready for the long nap.

24       And then we had our eyes on the other raft, the other -- the  
25 (indiscernible) deployed two. I kept poking my head up there just



1 looking for some sort of life, wondering, you know. It feels like  
2 we've been out here forever. We have, but nothing. And then, on  
3 one of my times looking out, I, I saw a light over by that raft,  
4 and I thought it was another vessel. And I kept telling Dean,  
5 Dean, I think I see something. I think I see something. There's  
6 someone here. I swear there's someone here. Oh God, are you  
7 sure, you sure? And then that light went from right about water  
8 level and just shot up.

9 And next thing I knew there was a helicopter that came flying  
10 out. You know, I was, I was shining my flashlight at it the whole  
11 time, hoping that, you know, someone was going to see it. And we  
12 didn't have a light in our canopy. And they must have saw the  
13 light, because after they shot up, they were hovering over us, and  
14 that's the most beautiful sound I've ever heard in my life, the  
15 rotors on that copter, just the water spray coming out. I mean,  
16 I, I wish I had -- I'm not a good story teller, and I have to  
17 reiterate the story.

18 Q. Now -- and, and I appreciate what you -- what, what you've  
19 been able to recall for --

20 A. If you need more detail --

21 Q. -- us, sir.

22 A. -- I can try and give it to you.

23 Q. I, I think what I'd like to do now is -- so now that we've  
24 established -- we've got to the point where the, the helicopter  
25 showed up, I'd like to take a five-minute recess, if that's okay

1 with you, and then come back and we can kind of do some follow-on  
2 questions for you. That -- if that works for you?

3 A. Yeah.

4 CAPT CALLAGHAN: Okay. The time is 1554. We're going to  
5 take a six-minute recess, and we'll resume at 1600.

6 (Off the record at 3:54 p.m.)

7 (On the record at 4:02 p.m.)

8 CAPT CALLAGHAN: Okay. The time is now 1602, and this  
9 hearing is now back in session.

10 BY CAPT CALLAGHAN:

11 Q. Mr. Lawler, I want to thank you for taking the time to, to  
12 get us through, get us through that. I know how difficult that  
13 must be and certainly appreciate your time in, in highlighting  
14 and, and bringing, bringing us through your experience. I have a  
15 couple of questions I want to follow on related to that experience  
16 and I'm -- it's going to kind of go back to just before you got on  
17 your way. Was there any testing of the bilge or other high water  
18 alarms before you got on your way that you witnessed?

19 A. No.

20 Q. And when you arrived to the vessel, did you, did you bring  
21 any of your own survival equipment at all?

22 A. No, negative, sir.

23 Q. And, Lieutenant McPhillips, can you bring up Exhibit 4,  
24 please, page 19? Sir, while that's coming up, so what I'm looking  
25 to try and do is just kind of establish the location of your

1 stateroom in, in relation to the bridge.

2 A. Top, top left right there.

3 Q. The top left?

4 A. Yeah.

5 Q. And can you tell us, so where about -- what deck and, and  
6 where that stateroom's --

7 A. That's the mid -- mid-deck. If you're, if you're heading up  
8 the, the wheelhouse stairs, you take an immediate right. And when  
9 you do, there's a (indiscernible) right in front of you and then  
10 rooms to the right of you.

11 Q. Okay. Lieutenant McPhillips, can you scroll to page 18  
12 please? Looking at that picture up in the top right, does that  
13 resemble that aft door of the stateroom?

14 A. Yes, sir.

15 Q. Okay. Thank you, Mr. Lawler. And thank you, Lieutenant  
16 McPhillips. You can bring that down. And then, Lieutenant  
17 McPhillips, I'm sorry, if you can bring back -- Exhibit 4 again,  
18 page 9. And, sir, sir, the bottom picture there, there appears to  
19 be some immersion suits in the cabinet there. Can you tell us  
20 where that's located?

21 A. That's in the wheelhouse towards the port side.

22 Q. And do you recall how many immersion suits were stored in  
23 that location?

24 A. It was too dark to see.

25 Q. During the, the drills prior to getting underway, had the

1 immersion suits been in there? Were they put out of that location  
2 or --

3 A. Just -- yeah, and this one was pulled on, the one that  
4 (indiscernible).

5 Q. Okay.

6 A. Done.

7 Q. And then, Lieutenant McPhillips, can you take us to Exhibit  
8 103 please? So, Mr. Lawler, so for reference purposes, I want to  
9 establish, does this immersion suit look familiar to you?

10 A. That's my suit, sir.

11 Q. Okay. And can you scroll down? Keep going down. Sorry.  
12 And, Mr. Lawler, is that you in that suit there?

13 A. Yes, sir.

14 Q. Okay. Thank you. Okay. You -- I'm finished with that  
15 exhibit, Mr. McPhillips. Thank you So, Mr. Lawler --

16 A. Sorry.

17 Q. As far -- so from the time you starting observing icing -- so  
18 on, on your last watch, had you observed any ice buildup at that  
19 time on your last watch?

20 A. Just the -- like I said, a little bit on the chains and then  
21 on the crab pot (indiscernible).

22 Q. Are you aware of any discussions for -- at, at any point for  
23 anyone to go out and, and break ice at any point?

24 A. There was never a discussion about that.

25 Q. Okay.

1       CAPT CALLAGHAN: Okay. Sir, I, I truly appreciate your time,  
2 and to, to make the best use of time, I'd like to offer this time  
3 and turn over my colleagues at the National Transportation Safety  
4 Board, Mr. Bart Barnum, to ask some follow on questions.

5       Mr. Barnum?

6       MR. BARNUM: Thank you, Captain.

7       BY MR. BARNUM:

8       Q. And I'm going to echo Captain's appreciate, you know, you  
9 showing up today and talking to us, Mr. Lawler. Thank you very  
10 much. I do have just a few follow-on questions. Prior to  
11 departure, was there ever any talk of taking less pots because the  
12 weather was forecasted to be foul?

13      A. No, the only discussion about pots was that -- between my --  
14 myself and Art when I was asking him how many we were loading,  
15 because we just kept putting them on, and it seemed like we were  
16 good already. But then again, you know, I, I never worked on the  
17 boat, so standard practice on the boat, I do not know.

18      Q. Okay. So there was no -- in reference to the weather and --

19      A. No.

20      Q. -- and, and taking less --

21      A. Negative.

22      Q. Leading up to the, the accident location and the, the journey  
23 while you were standing your watches or -- and your crewmates were  
24 also standing watches, did you maintain a steady speed or was  
25 there -- did you reduce speed to lessen the effects of the weather

1 on the vessel?

2 A. I'm 99 percent positive the RPMs on the boat were the same  
3 the whole time. You know, our speed, obviously, was lessened due  
4 to us going into it, but it was clear quartering it a lot of the  
5 times, but --

6 Q. Right. Thank you. Yes, that's what I meant, if you manually  
7 reduced them.

8 A. We were trying to maintain, but --

9 Q. Okay.

10 A. -- the tide and everything else was all (indiscernible).

11 Q. You mentioned in the beginning of your testimony that you  
12 turned on the bow heater prior to leaving Kodiak. Did that stay  
13 on the entire journey?

14 A. As far as I'm -- I, I wouldn't see why we would have shut it  
15 off, especially with the forecast. But as far as my knowledge  
16 goes, it was, it was never shut off.

17 Q. Okay. Also during your wheel watches, you mentioned you did  
18 a route of the engine room every half hour. Who was on the bridge  
19 when you went down to do that?

20 A. Autopilot. That's how, how we usually practiced that.

21 Q. Right. During those rounds of the engine room, did you note  
22 any -- note anything out of the ordinary?

23 A. There was just one thing, and I'm only going to offer this  
24 just because I feel like it's something that they did, did in the  
25 (indiscernible). You know, I, I told you how fast the boat went

1 down. And there's one thing I can add to that, too, even if we're  
2 taking water. And one of the things I did notice on this boat,  
3 that the watertight door that separates one part of the engine  
4 room to the next, where those voids were, was always stuck open.  
5 It was never dogged shut. And that's just -- I think -- actually  
6 asked Art about that, and he said they always leave it open. That  
7 could have probably bought us some time, too, just to have them  
8 dogged.

9 Q. Okay.

10 A. In the downward flooding.

11 Q. Understood. Do you recall which side of the vessel that  
12 hatch was on?

13 A. The center. If you go down the, the stairs to the engine  
14 room, that means you're going toward the stern, hang a right and  
15 then another right, and it went right in the center. It goes to  
16 the main on each side.

17 Q. Okay. Help me understand this. You -- did you ever enter  
18 that hatch?

19 A. Yes, because that's the, the only way you could put a visual  
20 on all the bilges to make sure there's no water that shouldn't be  
21 in the boat there.

22 Q. Okay. This is a different -- is this a different compartment  
23 then the actual voids that run on either side of the vessel?

24 A. Say that again, sorry.

25 Q. My understanding there was two voids that ran port to

1 starboard the length of the vessel.

2 A. Do you have any pictures of the engine room? I -- maybe I  
3 can better show you if you have one.

4 Q. I don't, I don't -- off the top of my head, I know we have  
5 a -- Lieutenant, could you please pull up the -- maybe the  
6 stability, stability report 2019. And members of the Board, if  
7 you had a better suggestion for an exhibit, please come forward.  
8 Thank you. So, Lieutenant, could you please bring up Exhibit 4,  
9 page 28?

10 A. Right there, you can see it on the bottom right. That door.

11 Q. Okay. Yes. All right. Thank you.

12 A. Over (indiscernible) boats are required, so --

13 Q. And that was, that was a -- okay. But nothing, nothing else  
14 to note during your rounds of the engine room? How were the  
15 bilges?

16 A. They were clean and clear.

17 Q. Okay. You had mentioned that -- I don't know if this is a  
18 direct quote, but -- earlier in your testimony that the ice that  
19 you've seen accumulate on the vessel was nothing that ever -- that  
20 ever would have concerned you. How much ice would concern you?

21 A. I mean, it's -- depends if you got a full stack on or you got  
22 a bigger boat.

23 Q. Full stack.

24 A. When, when the web starts building ice, there's some problems  
25 happening. I mean, I've been on a boat before where we've had



1 these suitcase pots, which that's where they're such ice cubes  
2 that you -- the amount of time it takes to keep the door open and  
3 get the line out, seconds can always count there. So we just sent  
4 like a whole, you know, handful over, just never to be seen again  
5 just to get rid of the weight. That's concerning there when you  
6 start seeing it like that.

7 Q. Okay. And you had mentioned you'd seen some icing  
8 accumulation on the, the chains. Did you ever see any during your  
9 watch starting to, to accumulate or accumulating on the webbing or  
10 any other -- any other parts of the pots?

11 A. I mean, just like -- like I said prior, little kind of fuzzed  
12 up a little bit, but nothing, like I said, that, that I would be  
13 concerned about.

14 Q. Just a couple more questions here, Mr. Lawler. Are you  
15 familiar with a personal locator beacon?

16 A. Yes.

17 Q. Did anybody onboard have one of those?

18 A. No. They're cheap enough, everyone should have one, but I  
19 don't see them honestly.

20 MR. BARNUM: That's actually all the questions I have for you  
21 right now. Thank you very much. I'm going to turn it over to my  
22 colleague at the NTSB, Paul Suffern.

23 MR. SUFFERN: Good afternoon, Mr. Lawler. Like my colleague,  
24 I appreciate your time and, and your courage speaking with us  
25 today. I just have a couple follow-up questions. Earlier during

1 your testimony you had mentioned you were listening to or watching  
2 the weather channel during one of your watches. Was that the  
3 radio or did you have the TV Weather Channel?

4 THE WITNESS: No, the, the WX channel on, on the VHF.

5 MR. SUFFERN: Okay. All right.

6 And then, Lieutenant McPhillips, could you bring up Number  
7 026, Exhibit 026 please?

8 During your discussions before departure, did you or any of  
9 your colleagues reference or look at any graphics like this that  
10 you can recall?

11 THE WITNESS: No, negative. Not that I can recall.

12 MR. SUFFERN: Okay. Thank you. That's all the questions I  
13 have for right now. Thank you, Mr. Lawler.

14 THE WITNESS: Sure.

15 CAPT CALLAGHAN: Okay. Thank you, Mr. Barnum.

16 Thank you, Mr. Suffern.

17 Mr. Lawler, at this time, I'm going to pass it to other  
18 parties in interest for any follow-on questions.

19 And we'll start with Mr. Barcott. Any questions from you,  
20 sir?

21 MR. BARCOTT: No. Mr. Lawler, thank you for being here. I  
22 don't have any questions.

23 CAPT CALLAGHAN: Thank you, Mr. Barcott.

24 Mr. Stacey, any questions from you, sir?

25 MR. N. STACEY: No questions, Captain.

1       CAPT CALLAGHAN: Thank you, sir. We do have -- I've got a  
2 few more questions and my colleague, Commander Denny.

3       So, Commander Denny, I'll, I'll pass it to you first.

4       CDR DENNY: Thanks, Captain.

5       BY CDR DENNY:

6 Q.   Thanks, Mr. Lawler. So I just want to take a minute and, and  
7 let you know that -- I apologize. Thank you. Technical  
8 difficulties. So I just wanted to take a minute and, and just  
9 thank you for, for speaking about this because I think that every  
10 detail that we can get from you is going to help us really paint  
11 this picture and get the best possible timeline on what happened.

12       So I am going to ask you some questions, and I'm going to  
13 jump around a little bit, but it's because we want to get as many  
14 details as possible. So if you need to close your eyes to try and  
15 remember some things, that's okay. I promise that I'm not, I'm  
16 not trying to upset you on purpose, but I just have a few  
17 questions that will help us --

18 A.   Right.

19 Q.   -- better understand how things happened.

20 A.   Okay.

21 Q.   Okay. So I just want to get some clarification. You said  
22 that you got hired for this voyage a little bit in advance, but  
23 you said a few days, but you didn't give a timeframe. And then  
24 the, the pre-employment drug testing that you took in Anchorage, I  
25 believe the timestamp on that said December 23rd. Was that the

1 same day you got hired on or --

2 A. Yeah.

3 Q. -- a day later?

4 A. It would have been because they would, they would have asked  
5 me to do it right --

6 Q. That day?

7 A. Yeah, because it was kind of like waiting on the, the word  
8 that, good to go, and now it's time to start the process. So that  
9 would make sense, I guess.

10 Q. Okay. So you took it that day. So the 23rd is the day -- on  
11 or about the day that you, you --

12 A. Somewhere around there.

13 Q. -- got the word to get hired?

14 A. With -- within a, within a day or two.

15 Q. Okay.

16 A. I would say.

17 Q. And then you said that you were on the same flight as Art and  
18 Brock?

19 A. Art and Brock, and Seth was with us too.

20 Q. And Seth was with you too. And so, and so you flew into  
21 Kodiak?

22 A. Yes.

23 Q. And so do you remember what day that was?

24 A. I feel like it was the 27th. I mean, I, I don't want to be  
25 (indiscernible) so don't quote -- don't hold, don't hold me to

1 that, but I'm pretty sure it was the 27th.

2 Q. Okay. And then you guys went straight from the airport,  
3 grabbed your bags, and went straight to the truck -- the dock?

4 A. Yes, ma'am.

5 Q. Where? Dog Bay? In the Dog Bay area?

6 A. Yes, ma'am.

7 Q. Okay. So you mentioned that, you know, you, you met David  
8 Cobban there, and he was --

9 A. He picked us up from the airport.

10 Q. Got you. So he picked you up. You guys all went to the  
11 boat. You said that it was kind of in a state of -- it was a  
12 little bit of a mess?

13 A. Yes.

14 Q. Because of all the steel everywhere. Do you remember  
15 anything that stuck out to you about that steel?

16 A. Yeah, the --

17 Q. Is there anything --

18 A. It was pitted -- a lot of it was really pitted out, but --  
19 and there was a lot of it. Enough for me to ask what was --  
20 what's this from, you know. It's always a thing of interest. You  
21 get on a boat and it has a bunch of cut out steel, so --

22 Q. Can you describe to me the size of the pieces that you were  
23 looking at? Was it like one-by-ones? Was it --

24 A. Like one-by-one, yeah, one-foot-by-one-foot of squares,  
25 triangles.

1 Q. Just --

2 A. Maybe --

3 Q. -- like scrap --

4 A. Yeah.

5 Q. -- kind of? So when you say that it was pitted, can you  
6 describe that for me? Was it rusty? Was it like just visibly  
7 scaled?

8 A. Scale, real, real scaly. Yes, ma'am.

9 Q. Is there anything else that you noticed on that steel?

10 A. I can't exactly -- no, just that. But I will note for you  
11 that I had asked Art about that, and he gave me the, the whole  
12 story like you guys have been through with the quick fix to the  
13 weld and everything else. That's why my automatic thoughts about  
14 why we went down was due to that area, but -- in other  
15 conversation regarding that, he also mentioned to me that, when  
16 the boat was down in the shipyard, on the way or, you know, on  
17 land, that someone had punched through the hull with a needle gun.  
18 And I asked him if they'd ever audio gauged it after he was done  
19 because it's just what -- you should probably do that, right. He  
20 didn't know. He had to ask David because I guess David was down  
21 there at the shipyard helping out. And no one had an answer for  
22 him there, so --

23 Q. Okay. Did you happen to look at the area that had been  
24 repaired?

25 A. Just a glance of it, you know.

1 Q. How did it look to you?

2 A. A lot of paint. It'd been painted over because I put all the  
3 -- you know, all the paint stuff was there. Just the goopy paint  
4 all over it.

5 Q. Okay. And so when you guys stacked all that scrapped steel,  
6 if, if you think about it, give me an average, your best guess,  
7 about how tall was that stack? How big was that stack?

8 A. Two stacks that were probably a foot or more tall.

9 Q. Okay.

10 A. Quite a bit of it. It was quite a bit. It was enough that  
11 it was getting annoying walking around all day.

12 Q. Okay. Okay. And then you said that you guys -- the ship's  
13 crew ended up disposing of it by chucking it overboard?

14 A. Yes, ma'am.

15 Q. At the dock?

16 A. Yes, ma'am.

17 Q. Do you remember what side of the --

18 A. It, it would have been on the, the same side of the -- the  
19 starboard side, the same, same side as where the repair work was  
20 done.

21 Q. And, and do you recall how, how the vessel was tied to the  
22 docks?

23 A. Tied up on the port side.

24 Q. Port side, okay. So on the outboard side you guys dumped --

25 A Yes, yes, ma'am.

1 Q. Got it. Okay. I want to talk to you a little bit about,  
2 about your experience level and, and also the, the level of work  
3 that you had to do. I mean, you've been in the business for 12  
4 years, and you -- so you've been on, on quite a few boats. So you  
5 mentioned a couple things that, that seemed like they might have  
6 been peculiar to you. And I don't want to put words in your  
7 mouth, so I just want to talk about that a little bit.

8 You said that when you got to the, the boat, you know,  
9 nothing was set up and that you guys had to set up all the pots,  
10 you had to rig all the pots and -- with the triggers, that that  
11 took a really long time and that you guys were working 18-plus  
12 hour days. At one point, you said 20 hours in that day and well  
13 into the night. I want you to, to think about when you were at  
14 the dock at Trident and tell me how you felt. Was, was it cold  
15 out? I mean, obviously, I know that it's December in Alaska.

16 A. Yeah.

17 Q. But, but based on all of your experience, was it unusually  
18 cold?

19 A. I, I would, I would say yeah. I remember when we left Dog  
20 Bay to go over to the Trident Dock, you know, it was howling  
21 pretty good through there. And it was enough to where everyone  
22 came down on deck and like hid in the (indiscernible) because we  
23 got a little heater in there just for that little crossing.  
24 Trying to duck out of the, you know, a little bit of the weather  
25 that, you know, we're just crossing the way, but why stay out and



1 freeze your face, you know.

2 Q. So for all of that rigging of the pots, you were out in the  
3 weather, right? You were --

4 A. Yes.

5 Q. -- out on deck on --

6 A. On deck.

7 Q. -- on the dock?

8 A. Or on land.

9 Q. And so you were rigging and putting pots on, rigging and  
10 putting pots on?

11 A. Yeah, and that part's nothing new. Rigging pots, I wasn't  
12 trying to say that. I was just -- the -- our time -- or a lot of  
13 time scheduled to rig over. We rigged over the whole stack. Like  
14 there -- and we were trying to -- you know, have to get out of  
15 town, so --

16 Q. So it seems to me --

17 A. That's not -- I mean, we'd fly out a few days earlier.

18 Q. So I'm getting the sense, so please tell me if I'm  
19 misunderstanding, but it seems like you felt and that the other  
20 crew members had a sense of urgency?

21 A. Well, yeah.

22 Q. It --

23 A. We're trying to make a fishery.

24 Q. And -- but who told you that, right? Like, where was that  
25 sense of urgency coming from?

1 A. I mean, I didn't talk to Gary much, but like Brock and Art,  
2 you know, we need to get these on and get going. So like I said,  
3 it made sense to me. Like I said before, it would -- January 1  
4 dump gear, last -- the year prior it was done by the 6th. So, you  
5 know, we got so many days of travel before we can get out there  
6 and even dump the gear, let alone make a trip out of it.

7 Q. And you know -- would you be able to say how many days of  
8 travel you would have had before you could have gotten on the  
9 grounds and, and dumped the gear?

10 A. Well, depending on the weather, I mean, three to four, three  
11 to five, depending on how -- what we're doing.

12 Q. So if you guys -- so you guys left on the 30th. So if it  
13 would have been even three days, you wouldn't have gotten there  
14 until the 2nd or 3rd?

15 A. Yeah.

16 Q. Is that fair? Which would have given you three days to fish?

17 A. Yeah, that's -- you know, we got to get all the gear off  
18 first, let it soak, and then we might have -- I mean, by way of  
19 numbers, maybe had enough time to run through the gear once or  
20 twice and that would, would have been it.

21 Q. Right. Thank you. So you're back at the dock and you're  
22 working, and I'm just really trying to get a sense of what that,  
23 what that weather and environment was for you. What do you  
24 remember as far as your recollections about the weather? Was it  
25 -- you mentioned it was howling on that short transit. Was it

1 raining? Was it just super windy and cold?

2 A. It was windy and cold. I think we had a little, little bit  
3 of sleet going on one day, I believe.

4 Q. Okay.

5 A. It's hard --

6 Q. So --

7 A. -- to remember back that, you know, to, to that part of it,  
8 but I mean, the, the part that's ingrained in my head is --

9 Q. I'm with you. So where I'm trying to go with this is do you  
10 remember that while, while you were loading pots, what is your  
11 recollection of the way that ice was either sticking to or, or not  
12 to --

13 A. In town?

14 Q. -- pots in town?

15 A. It wasn't sticking to the pots.

16 Q. At all?

17 A. No.

18 Q. So there wasn't even a little bit of a glaze --

19 A. No.

20 Q. -- when you were in town?

21 A. None at all.

22 Q. So it was just super cold and -- but no ice accumulation of  
23 any kind?

24 A. Right, there wasn't the spray to really make that happen.

25 You know, the -- we're not traveling, you know, and bumping into

1 it, having the spray kick up from the sea.

2 Q. But not enough from the sleet or the temperatures to be cold  
3 enough to ice anything up?

4 A. Yeah, no.

5 Q. Okay. So you mentioned Mr. Gamby was on the crew originally.  
6 When did he get in, do you remember?

7 A. He, he flew in with us. So (indiscernible).

8 Q. Oh, he did?

9 A. So there -- yeah, he flew in with us too. There was a --  
10 everyone flew in except for David. David lived there.

11 Q. Okay. So it was you, Art, Brock, and Dillon, and, and David  
12 came and picked all four of you up?

13 A. Yeah.

14 Q. Okay. Got you. So about -- after you guys flew in, about  
15 how many days was it before Mr. Gamby no longer was employed on  
16 the vessel?

17 A. I believe that was on the 28th when that happened. I believe  
18 Mr. Gribble came in on the 29th, the next day.

19 Q. Okay. Okay. So then you mentioned that, for three to four  
20 days straight, you were working 18- to 20-hour days, and you were  
21 -- I believe your comment was like, you, you were, you were dog  
22 tired, you were very tired because you had said that -- that's,  
23 that's the kind of hours you pull when you're underway and  
24 fishing.

25 A. Right.

1 Q. During the transit from after you left Kodiak and during the  
2 transit before the accident, do you -- did you feel more rested?  
3 I know that you were doing wheel watch --

4 A. Well, it was --

5 Q. -- a little bit more relaxing.

6 A. -- when we left, Gary, you know, navigating. It's his boat,  
7 he's going to navigate out. That, that -- a lot of this, it's six  
8 to eight hours of sleep, so the math of that, good to go for my  
9 watch.

10 Q. Okay. So you got six to eight hours of down time, which was  
11 good, and then it was your watch timeframe. And then I just want  
12 you to take just a minute or two to just think back to that very  
13 first watch so that we could get a good sense of the weather  
14 conditions that you remember. So just take a minute and think  
15 back to that first watch.

16 A. It was nasty out on -- even on the other side there. Even  
17 though we were a little (indiscernible), but it was still nasty  
18 out. It was just like Gary said it was going to be. It was going  
19 to be shitty, and it's going to get shittier. Essentially that's  
20 pretty much close enough to what he said, so -- and, and he -- and  
21 his reference to that was on the -- you know, being on the --  
22 having some cover, then being out in the open.

23 Q. When you were up on the bridge, do you remember, do you  
24 remember looking at any of the, the equipment onboard the, the  
25 bridge to ascertain where you were? Could you give me a rough

1 estimate of where you were, where the vessel was in relation to  
2 other islands? Did, did you look at that or were you just, like,  
3 I'm -- I'm steering a course?

4 A. Well, I always look at it. I believe on my first watch the  
5 -- Kodiak was on the port, stern, you know, miles back. And then  
6 the next watch we were out in the open, probably three quarters of  
7 the way to Sutwik. That area.

8 Q. Okay. And so, on your second watch, how had the weather  
9 conditions -- to the best of your recollection, how had the  
10 weather conditions changed?

11 A. Bigger seas, starting to see some -- a little bit of ice  
12 buildup, but like I said, nothing I was worried about. The one  
13 thing that concerned me a few times laying in my rack was with  
14 that weather, I kept feeling what -- it's a new, it's a new  
15 boat -- or a new boat to me, but I -- and I, I worked on a  
16 schooner before. And when you're in a following sea, you got to  
17 shudder the hull. Does that make sense? Am I making sense here?  
18 It, it shudders when, you know, it picks it up and comes down.

19 And I was feeling that on this boat when it started getting  
20 bigger weather. And now thinking back on it, I don't know if  
21 that's the general way that that boat rode or, or if we had  
22 already accumulated some water in the hull somewhere where it was  
23 that slack feeling in that void because it should shudder. And  
24 then it'd pick us up and shudder again.

25 Q. From your experience, based on your experience, what would

1 you, to the best of your recollection, say the sea state was on  
2 that second watch?

3 A. The what now? Sorry.

4 Q. The sea state. Like you, you know, you're describing that  
5 the waves got bigger.

6 A. Oh.

7 Q. The sea state got bigger.

8 A. No, we were --

9 Q. What were you estimating?

10 A. Twenty-five, 30.

11 Q. Twenty-five, 30 foot --

12 A. Foot.

13 Q. -- seas?

14 A. Yes.

15 Q. Okay. And what do you remember about the wind?

16 A. It was blowing towards the starboard side or kind of  
17 quartering us a little bit. All, all the weather was coming,  
18 picking up to the starboard bow, but just (indiscernible) quarter  
19 into it.

20 Q. Do you remember if the *Scandies Rose* had any equipment  
21 onboard the bridge that would tell you how strong the winds were?

22 A. I did not see that on there, no.

23 Q. Okay. But from your experience, it was --

24 A. There's, there's not --

25 Q. -- more wind?

1 A. You, you can -- no, I mean, I, I couldn't give you an exact  
2 number, but you hear it against the house and like you kind of  
3 -- over the years, you get kind of a gauge. I'd say it sounded  
4 like it was whipping 50, 60 out there.

5 Q. Okay. I'd, I'd like to kind of get a sense of -- you know, I  
6 think everybody has a relative term of what's a lot, what's a  
7 little, especially when it comes to ice accumulation. So I'd like  
8 to get an exhibit pulled up so that you can tell me, to the best  
9 of your recollection, if it was about the same, a little less, a  
10 little more, that -- okay.

11 A. Well, when I say a little, it's because it hadn't coated  
12 everything.

13 Q. Okay.

14 A. It was just on a little bit here, a little bit there, and a  
15 quarter, quarter inch, if that. Enough to just be able to  
16 visually see it finally.

17 Q. Okay.

18 A. That it just started to, you know, show its face a little  
19 bit.

20 Q. Okay. So do you recall if, when you were standing out there,  
21 you're standing on watch, you're looking at everything -- you said  
22 that there was a partial obstruction based on the configuration of  
23 the pots. Could, could you see all the way to the bow?

24 A. If you're in the captain's seat, yes, you can.

25 Q. And do you sit in the captain's seat when you're on watch?



1 A. Yes, ma'am.

2 Q. So, so you were able to see down to the bow and the weather,  
3 there was no precipitation? It was just super windy, but you  
4 could see all the way? It wasn't like --

5 A. Yes, ma'am.

6 Q. -- the weather was restricted or the visibility was  
7 restricted. Is that a fair statement?

8 A. The, the visibility you said?

9 Q. Was the visibility restricted because of, let's say, snow or  
10 sleet or anything like that?

11 A. Not on my last watch, no. I could see every -- I could see  
12 the whole entire boat as -- in its entirety.

13 Q. Okay. But it was still very windy?

14 A. Yes.

15 Q. And you estimate, you know, 50, 60?

16 A. Yeah.

17 Q. Okay. Lieutenant McPhillips, could you actually pull up the,  
18 the pinnacle images?

19 CAPT CALLAGHAN: Lieutenant McPhillips, I believe it's --

20 CDR DENNY: And so --

21 CAPT CALLAGHAN: -- 093.

22 THE WITNESS: Nothing like that.

23 BY CDR DENNY:

24 Q. Okay. So you're saying a lot less than this?

25 A. A lot.

1 Q. Is that fair?

2 A. Yes, ma'am.

3 Q. Okay. Can we scroll down a minute? I just want to see if  
4 there's -- how about that? If you're --

5 A. Zoom in on that --

6 Q. From the bridge, is that --

7 A. -- please?

8 Q. Go ahead.

9 A. So the way that, that block looks over there with the  
10 (indiscernible) and everything --

11 Q. Let's zoom in on that for Mr. Lawler. Let's zoom in.

12 A. It was less than that on, on the gear, on, you know, the  
13 working gear on the side of the boat, and the pots looked about  
14 like, like that pot in front of us, maybe like that there. That's  
15 about sprinkles.

16 Q. Okay.

17 A. The forward of that boat looks like there's a lot more ice  
18 than the one on -- and on the port side way than I thought I saw.  
19 We had nothing like that.

20 Q. Okay. And to the best of your recollection -- so we're  
21 talking about the second watch, right? Still the second watch.  
22 You're telling me that what you remember seeing at -- on, on the  
23 pots was something like that for your second watch?

24 A. My last watch.

25 Q. For your last watch? Okay. Do you remember if it was even,

1 if that was your observation --

2 A. No, because --

3 Q. -- across the pots?

4 A. -- it wasn't even like that. There was a little bit on the,  
5 the chains that were laying over and then a little bit on -- you  
6 know, because we were taking close to the weather to the, the  
7 starboard side and just kind of dispersed throughout the stack,  
8 like on the, on the cross bars and --

9 Q. So --

10 A. Well, I could have scraped it off with, with my thumbnail,  
11 you know. Like, like just -- if that makes sense. I, I don't  
12 know how to explain it. It wasn't -- you -- even if you went out  
13 there with an ice mallet and you hit it, it's not really going to  
14 do anything at that point.

15 Q. Okay. So you've been, you've been a fisherman for, for 12  
16 years and you said you owned your own boat. If you were the  
17 captain of, of the *Scandies Rose* and you had seen the ice  
18 accumulation that you saw -- we can go ahead and take that down,  
19 thank you -- that you had seen that the accumulation that you  
20 observed, as a captain, would you have -- what would your decision  
21 have been? Would you have been like, okay, crew, let's get out of  
22 there and break some ice, or what would you have thought in that  
23 regard?

24 A. I would have done some mitigation before we left town, but  
25 what I saw out there -- well, on my last watch, I would -- it

1 would have been more of a hazard to the crew to send them out  
2 there in that weather than the ice was. So there was like not  
3 enough to -- especially with no alleyway like we spoke about  
4 earlier. Climbing over the stack, everything, and there's barely  
5 enough to beat off the grablock. It's not worth the time going  
6 out there at that point.

7 Q. Okay.

8 A. With what I saw. I don't know what happened, you know. I  
9 saw -- it was so quick when we actually went down that, you know,  
10 I don't know how much more it had actually grown. As you know  
11 from past experience, it can happen really quick too.

12 Q. Okay. That's fair. We're just -- again, just trying to  
13 understand and get as many details as possible for a timeline of  
14 how this happened. So you, you did just say something that I, I  
15 wanted to ask you about. You said you would have mitigated before  
16 you got out of town. What do you mean by that?

17 A. Well, I -- there's some people that believe in tarps and  
18 stuff, some people that don't. My friend happened to send me a  
19 picture of their whole boat with their whole stack completely  
20 tarped off, and they were over in the -- I think they were over in  
21 King Cove. And, you know, that's like a sign of what we were  
22 heading for. So I'm not in charge, though.

23 Q. But you did say that you mentioned it to Captain Cobban?

24 A. I had, yes.

25 Q. And you showed him the picture you said?

1 A. I did, yes. Yes, ma'am.

2 Q. Okay. I want to take us back to, to when you said that, you  
3 know, you guys were waiting to get underway because, you know, you  
4 were waiting for the tide. You said that only Mr. Gribble donned  
5 the immersion suit.

6 A. Yes, ma'am.

7 Q. Is that normal on -- based on your experience working in  
8 different fishing vessels?

9 A. Generally, yeah, there's one guy that gets picked out and  
10 it's always like, you know, he got picked. I didn't get picked.  
11 We get to watch him out in the --

12 Q. Okay. And then you mentioned that -- and I think I may have  
13 misheard you, but you mentioned that Art was spending a lot of  
14 time in and out of the engine room. Do you know what he was  
15 doing? Did he mention?

16 A. Just probably general engineer stuff. He didn't mention, but  
17 I would imagine -- you know, we'd just got back to town. He --  
18 went and -- laid the boat up. Maybe he hadn't got his oil changes  
19 in yet, so maybe he was working on those. Hard, hard to say. I  
20 can't really tell you what he was doing, honestly.

21 Q. Okay. I just was wondering if he was going in and out, maybe  
22 you saw him in the galley or like if you heard some conversation?

23 A. No. I mean, we, we would talk, but just not any -- about  
24 anything that he was currently doing in the engine room.

25 Q. Okay. So when did you did talk, did he seem perturbed or

1 concerned about anything?

2 A. No, just that one thing that, like I said, we got to town. I  
3 was asking about the steel. He was a little thrown off that they  
4 had to, you know, fix it again for -- the whole story was that  
5 they tried to make a fix, and then it leaked again. And he -- I  
6 think he just mentioned that he hopes that it's actually  
7 successful this time.

8 Q. So did Art sound -- when he told you that story, did he sound  
9 like he was part of that temporary fix?

10 A. I, I don't recall if he sounded like he was part of it. He  
11 knew about it. He was in the know.

12 Q. Oh, I was just wondering if you remember if he was telling it  
13 in the third person or if it -- like I was part of this or --

14 A. Oh, I --

15 Q. -- I, I, I --

16 A. I imagine he was telling it first person, but, you know, it  
17 happens a lot on boats. Like sending someone to go fix something  
18 and then talk about -- everyone talks about that guy fixed that,  
19 but didn't really get fixed, you know.

20 Q. Okay.

21 A. That seems to be a big problem for -- need to be things  
22 checked, double checked.

23 Q. Okay. So -- okay. I, I need to ask a couple of hard  
24 questions. So when you were in your rack, did you have top or  
25 bottom rack?

1 A. I had the bottom rack.

2 Q. Okay. And then you said that Dean came in. You, you -- he  
3 relieved you?

4 A. Yes, ma'am.

5 Q. Right? So Mr. Gribble relieved you. And did you do an  
6 engine room round at the end of your --

7 A. Yes, I did one in the middle and one in the end. Yes, ma'am.

8 Q. Okay. And do you remember seeing anything out of the normal  
9 on your engine room round when you, you know, got off watch?

10 A. No, ma'am. The boat was trim, no water in the bilge. Well,  
11 I mean, there's always usually just a little bit right below the  
12 shaft there.

13 Q. Do you remember hearing anything that was abnormal, see  
14 anything leaking that was abnormal?

15 A. No, just that -- like I told you, laying in my rack that  
16 night, some time during that bad weather, you could -- I don't  
17 know how to explain the sounds, but riding up and then coming  
18 down, you'd, you'd feel the (indiscernible). And then, you know,  
19 first time on the boat, maybe that's how it rides normally. You  
20 know, boats make different noises. The way they ride, they all  
21 ride different.

22 Q. Okay.

23 A. But it could have been something similar, so I'm, I'm not  
24 going to throw that out the door.

25 Q. So then about -- you said you stood an hour, hour watches, so

1 about an hour later, Mr. Gribble came back to your guys' room and  
2 you were watching the movie on, on the computer?

3 A. Yes, ma'am.

4 Q. So you guys -- so then you -- did you give Mr. Gribble back  
5 the computer and you were -- you said because you were nodding off  
6 at, at that point?

7 A. Yeah, no, he came in -- no, I, I -- that was my computer. He  
8 gave me an SD card to put the movies on. But he stepped up to go  
9 up to his bunk and just the usual, hey, man, how was your watch,  
10 you know. Just banter. And then we laid there and we talked for  
11 a second and then just nodded, nodded off. I don't think it was  
12 -- I think I just nodded off because I was going --

13 Q. Okay. Did -- do you remember if Mr. Gribble mentioned how  
14 his watch went?

15 A. There was nothing of significance that he talked to me about  
16 and just Gary's up and out. That was it. I think I asked --  
17 because I think I did ask. I was like, who -- is Gary up there or  
18 who's up there now? And I think I do remember him telling me  
19 that. But I already -- that was the list. That's the way the  
20 list went.

21 Q. Okay. And remind me again, did, did -- when you got off your  
22 third watch, was there any list at all that you recall to the  
23 vessel?

24 A. We never had a list the, the whole trip other than that one  
25 right at the beginning when we were leaving where I picked -- we



1 were just transferring some fuel.

2 Q. Okay. And did Mr. Gribble mention any list at all --

3 A. Not to me.

4 Q. -- when he came on?

5 A. No.

6 Q. Okay. So when you felt that really hard lean over, tell me  
7 what you did hear -- and you jumped out of your rack and you said  
8 that you ran up to the bridge. Tell me what you did hear.

9 A. I didn't hear anything. I just knew. Just a feeling. I --  
10 the pit in your stomach. And the door was closed, and when I  
11 opened the door, it was swung open, you know, smashed the side of  
12 the, the other wall because it -- we were leaning over so hard.  
13 Then I, I ran up the stairs sideways, you know, climbing like  
14 this. And I was, I was out of my rack and up in the wheelhouse  
15 within -- I'm a pretty big guy, but I probably would -- two  
16 seconds I was up there. I mean, I, I flew out of my bunk because  
17 I just knew. It was obvious that something was not right.

18 Q. And you said that, that Captain Cobban had just keyed up the  
19 mic to the sat phone, to the sat phone?

20 A. Yeah, he was talking to Austin (ph.) on the, the, the civic  
21 sounder. I only know that because I remember hearing him say  
22 Austin's name.

23 Q. Okay. Did he say Mr. Loan's (ph.) first name or last name?

24 A. His first name.

25 Q. And, and you know Mr. Loan from previously or --

1 A. Yes.

2 Q. -- from the industry?

3 A. Like the whole thing, like out in the industry. And people,  
4 people know names even if you don't know them personally. You  
5 hear about people.

6 Q. So you heard Captain Cobban say Mr. -- Captain Loan's name.  
7 Was there any other conversation at all? Did you hear any other  
8 part, any other words that he said?

9 A. No, just the name on the first one and then -- trying to  
10 remember back. I'm pretty sure I remember him -- which was  
11 confusing to me, you know. I get that he's trying to talk to  
12 someone, but he said -- he had said -- I don't remember the exact  
13 words he used, but he, he -- in, in a few words, he basically let  
14 Austin know that something was not right. And I don't remember  
15 what the exact sentence was. So he was communicating through the  
16 sat phone about our current state, which our current state was  
17 there was no coming back from it. I mean, you've been on boats  
18 long enough, you know that once you get to a certain degree, it's  
19 not coming back. It's time to go.

20 Q. So you're saying that like you knew, deep inside you, you  
21 knew already at that point?

22 A. Oh, it's like I got punched in the gut, and I just lost all  
23 wind.

24 Q. Were all the lights off on the bridge?

25 A. Yeah, that's how we travel.

1 Q. At night?

2 A. You got to be able to see out the window. I mean, you can  
3 turn your red lights on.

4 Q. Were the red lights on, do you remember?

5 A. They weren't, no.

6 Q. Okay. Do you remember hearing the generators or the engines  
7 at all when you were up there on the bridge? Could you hear --  
8 and I'm just trying to --

9 A. That, that, that --

10 Q. -- get a sense --

11 A. That hum, yeah.

12 Q. Did you hear anything?

13 A. But I mainly heard them when we were outside and they ran  
14 away -- I want to say run away, but the RPMs just spiked and  
15 started smoking up the stack.

16 Q. Okay. So --

17 CAPT CALLAGHAN: Commander Denny, I'm, I'm going to ask for  
18 just to -- sorry to interrupt. I'm going to ask that we take a  
19 quick, quick recess, maybe two minutes and then come back at 1655  
20 and sort of wrap things up.

21 (Off the record at 4:52 p.m.)

22 (On the record at 4:57 p.m.)

23 CAPT CALLAGHAN: Okay. The time is now 1658. The hearing's  
24 back in session. At this time, I'd like to ask Lieutenant  
25 McPhillips if you could bring up Exhibit 046 please. And can you

1 scroll down to the second page, Lieutenant?

2 LT McPHILLIPS: Sure.

3 BY CAPT CALLAGHAN:

4 Q. Mr. Lawler, the -- and maybe the first page is probably -- or  
5 no, that's good. The, the bottom picture is good. Mr. Lawler,  
6 looking at that bottom picture there, so if, if you were in the  
7 wheelhouse and, and your visibility down the starboard side and,  
8 and forward, would you be able to see the extreme port side  
9 forward of the pots from your, your vantage point?

10 A. No, sir.

11 Q. Okay. Thank you. Lieutenant McPhillips, you can bring that  
12 down. Earlier, you made a comment regarding some -- an incident  
13 with a needle gun being mentioned to you. Can you maybe tell us  
14 more who you got that from and, and where they indicated that,  
15 that incident had taken place?

16 A. I heard from that from Art Ganacias, and the -- he said that  
17 had taken place down south. But I think -- well, I don't think, I  
18 was told that also David was calling up, probably pissed off too  
19 about the whole situation. Just like my own detail I heard, so --

20 Q. Did, did he happen to indicate where in the, where in the  
21 hull that it might have happened?

22 A. I can't say to that.

23 Q. Okay. No, thank you.

24 A. Under the waterline somewhere.

25 Q. And so once you, once you guys got back to land and you got

1 to the hospital, who, who met you at the hospital?

2 A. It was Gerry Cobban.

3 Q. Okay.

4 A. Well, she had showed up and the, the nurse came in and asked  
5 if it would be okay if, if she came in.

6 Q. Okay. And had you met her before?

7 A. No, sir.

8 Q. And, and what capacity was she, was she there visiting?

9 A. She -- sorry, I don't know what --

10 Q. Do you know what capacity she was there visiting?

11 A. She just asked to visit us, and I assumed it was she wanted  
12 the story of what happened, and I, I was not thrilled with --  
13 obviously not thrilled, you know, but I just didn't want to be the  
14 guy that delivered the, the news.

15 Q. Okay. And, and when you're at the, the hospital, aside from  
16 the doctors looking you over there, did anything else occur while  
17 you were at the hospital?

18 A. Just the IV that I had been given. I -- it's not really  
19 relevant, but I had a blood clot in my arm after that that I had  
20 to go to the hospital for upon returning home.

21 Q. And that, that was after you returned home from that?

22 A. Yeah, but it, it occurred out there. That's the only  
23 occurrence that I can think of that would have taken place in the  
24 hospital or on the way to the hospital.

25 Q. Okay. And at any point did -- were you asked to take a drug

1 or alcohol test following the incident?

2 A. Yes, sir.

3 Q. Lieutenant McPhillips, can you bring up Exhibit 80 please?

4 And, Mr. Lawler, does -- do you recognize this?

5 A. Yeah, it's -- this is it.

6 Q. Does that resemble the test that you were asked to take?

7 A. Yes, sir. I believe she -- well, she, she had asked if we  
8 needed anything, and clearly we needed something to wear because  
9 we didn't have any clothes on. Everything was soaked, so the  
10 clothes -- little clothes we did have. And then she had showed  
11 back up to the hospital with two Target brand drug tests and said  
12 that we had to pee on them.

13 Q. Okay. And do you remember what the results were there?

14 A. Mine passed. There I can see two lines all the way down.

15 Q. Thank you. Lieutenant McPhillips, you can, you can bring  
16 that down. Thank you, Mr. Lawler. So, at this time, I want to  
17 ask you -- and, and so this is not the easiest question to answer,  
18 but it's something that's very important for us to get out of  
19 this. As a survivor, are there any specific training items or  
20 experiences that you would attribute to you being able to don your  
21 immersion suit and, and get out of the vessel?

22 A. Well, I have plans to write you guys a whole list on things,  
23 and I just don't really want to go into that right now. But I got  
24 to stop talking about -- I mean, if I had any piece of advice to  
25 give, just to keep moving. Don't freeze. I, I don't -- I'm just

1 as human as everyone else. I'm, I'm sure that, you know, some  
2 extensive training or, or some sort of training would help where  
3 it becomes muscle memory over time. I mean, that's what the  
4 military does for people, and it becomes second nature. And a lot  
5 of that stuff that happened to us is not second nature. It  
6 doesn't happen until it happens, and then everyone's surprised.

7 Q. So along those lines, is there anything from, from your  
8 perspective as, as a survivor who went through this horrific  
9 incident, is there anything -- any, any questions that you think  
10 we didn't -- we failed to answer, but that we -- that should be  
11 brought to our attention here during this hearing?

12 A. No, I think you guys are doing a really thorough job. And,  
13 and like I said, I have some things on, on my mind, and I'll  
14 probably pass over to you later, but at, at this point, no.

15 Q. Okay. And, and then my follow-on to that is, are there any  
16 recommendations -- and, and I know this is not easy, but are there  
17 any recommendations that, that you would make that might help  
18 prevent such an incident in the future?

19 A. Verbally, right now, no. But like I said, I'd, I'd be more  
20 than happy -- I do have things in my head that I'd like to share  
21 later. This is too much right now.

22 Q. And, and we would certainly welcome that, and we certainly  
23 appreciate that. And, and as I mentioned, as a survivor, you  
24 know, we have a, we have a unique opportunity to learn from you  
25 and your experience so that we can do the best we can to complete

1 the most thorough investigation possible so that we can make the  
2 most informed recommendations to improve safety of life at sea  
3 for, for the rest of the fishing fleet and -- so we don't have  
4 just tragic incidents with loss of life. And --

5 A. Yeah, and, and I'll say, I, I have -- and, and I can see  
6 what's been happening and, you know, the, the hearings you're  
7 doing is, is perfect. Like I've told a few people, I, I don't  
8 want people to be saving face but rather saving lives. So if we  
9 can keep on that course, I think that would be the best for  
10 everybody.

11 Q. Absolutely. Thank you, sir.

12 CAPT CALLAGHAN: And, sir, Mr. Stacey, as, as counsel, I'd  
13 ask that we just continue to, to follow up and if we can continue  
14 that conversation and, and we can get any of those recommendations  
15 from you as a follow up, we'd ask that you work through Lieutenant  
16 Pels and, and we can make that part of the investigation.

17 MR. J. STACEY: Of course, Captain. As Mr. Lawler has  
18 already said, he and Mr. Gribble are very anxious to help out in  
19 any way that they can to help out the, the families, as well as  
20 the Coast Guard and the future mariners. So anything we can do to  
21 help, these, these gentlemen would be happy to do so.

22 CAPT CALLAGHAN: Again, sir, I, I can't begin to express  
23 enough condolences to you and explain our gratitude enough for  
24 your willingness to come here and share your story, not only to  
25 us, but to the public so that everyone can better understand what



1 happened and that we can affect change down in the future. So  
2 thank you. And again, we offer our deepest condolences on behalf  
3 of the Marine Board here at the Coast Guard for the loss of your  
4 shipmates and, and the experience that you, you went through.

5 So we are -- at -- this concludes our time -- our testimony  
6 for you today. However, I anticipate that you may be recalled to  
7 provide additional testimony at a later date. Therefore, I'm not  
8 releasing you from your testimony at this time, and you do remain  
9 under oath. So please do not discuss your testimony or this case  
10 with anyone other than your counsel or members of this Coast Guard  
11 Marine Board of Investigation. If you have any questions about  
12 this, you may contact my legal advisor, Lieutenant Sharyl Pels,  
13 through your attorney.

14 THE WITNESS: Yes, sir.

15 CAPT CALLAGHAN: Thank you very much, sir.

16 THE WITNESS: Thank you, sir.

17 CAPT CALLAGHAN: The record shows it is now 1708. We're  
18 going to take a brief recess and come back at 1710. We'll  
19 reconvene.

20 (Off the record at 5:08 p.m.)

21 (On the record at 5:11 p.m.)

22 CAPT CALLAGHAN: Okay. It's now 1711. The hearing's back in  
23 session. I wanted to take this opportunity to come back from  
24 recess and thank all of our witnesses for their testimonies today.  
25 Again, for the record, all exhibits that were presented today will

1 be posted on the MBI website at, at -- upon conclusion today.

2 Again, as -- thanking all the witnesses today. I want to  
3 recognize that this is a rare, unique opportunity for us as a  
4 Marine Board to learn from a survivor and, and hear the tragic  
5 events that occurred and just the experiences and learn as much as  
6 we can.

7 So, at this point, it is now 1712 on February 24th. The  
8 hearing will now adjourn for today and resume at 0800 tomorrow,  
9 February 25th.

10 (Whereupon, at 5:12 p.m., the hearing was recessed.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Marine Board of Investigation  
Into the Sinking of the *Scandies Rose*  
On December 31, 2019

PLACE: Seattle, Washington

DATE: February 24, 2021

was held according to the record, and that this is the original,  
complete, true and accurate transcript which has been compared to  
the recording accomplished at the hearing.

  
Kelly Anne Treado Vance  
Transcriber